

2148 [Bible Jacob] 219
= THE
Complete Parish-Officer;
CONTAINING JUL 3

- I. The Authority and Duty of High Constables, Petty Constables, Headboroughs, and Tithingmen, in every Branch of their Duties, pursuant to acts of Parliament: With the High-Constables Precepts, Presentments, Warrants, &c.
- II. Of Church-wardens, how chosen, their Business in Repairing of Churches, &c. and Assigning of Seats; the Manner of Passing their Accounts, and the Laws concerning the Church in all Cases; and an Abstract of the Act for building Fifty new Churches in *London* and *Wexminster*. Also of Sidesmen, and their Duty; and Vestrymen, &c.
- III. Of Overseers of the Poor, and their office; their Power in Relieving, Employing and Settling, &c. of poor Persons; the Laws relating to the Poor, and Settlements, and the Statutes concerning Masters and Servants.
- IV. Of Surveyors of the Highways, and Scavengers, how elected, their Business in amending the Ways, &c. and the Duty of others, with the Methods of Taxation, and Laws of the Highways.
- V. Of Watchmen, their Original and Power.

Together with
The STATUTES relating to Hackney Coaches
and Chairs, Watermen, &c.

The Twelfth Edition, Corrected, with large Additions.

To which is added **The Office of Constables**, written by Sir *FRANCIS BACON*, Knt. in the Year 1610. declaring what Power they have, and how they ought to be cherished in their Office.

In the S A V O Y:

Printed by *HENRY LINTOT*, Law-Printer to the King's most Excellent Majesty; for *S. Wirt* at the Bible and Ball, and *W. Dod* at the Bible and Key, both in *Ave-Mary-Lane*; and *J. Hodges*, over against *St. Magnus-Church*, on *London-Bridge*. MDCCL.

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THE PREFACE.

THE very great Deficiency in the Books hitherto published of this Nature, with Relation to the Business of Church-wardens and Overseers of the Poor, will be a sufficient Apology for my Engaging in this Undertaking; There being no Treatise yet extant, that contains any tolerable Directions for Dispatch of the Business, and Variety of Proceedings, incident to those extensive Offices, especially in the populous City of London.

The other Books on the Subject, are likewise very defective in the Office of Constables; I having, besides at least twenty intire new Heads, made very considerable Additions and Improvements to what has hitherto appeared, with respect to them; and the Business of Surveyors of the Highways, is no less neglected by other Authors; so that I have sufficient room to introduce this small Performance.

I have taken Care that no particular Thing of any Signification, relating either to Constables, Church-wardens, Overseers of the Poor, or Surveyors of the Highways, is wanting in this new Edition, to render it complete; and as a farther Recommendation, I think it incumbent on me to signify that I have thoroughly examined my References, and compared my Book with the Authors referr'd to, whereby the Plebeian, unacquainted with our Laws and Statutes, may be assured of his acting

The P R E F A C E.

ing with Safety, without advising with other Persons, or consulting any Authority but the ensuing Treatise. I have also now added, besides divers further Heads, an Account of several popular late Acts of Parliament, with some very useful Cautions to Constables and others.

This I doubt not will be a Satisfaction to all Parish-Officers, to have so many valuable Instructions communicated in so small a Compass. By this Means the Purchase is in every one's Power; and that nothing might be omitted, which may contribute to the Usefulness of this Treat, I have inserted an Abstract of the Statutes for building fifty new Churches in London and Westminster, several magnificent Structures being now erected pursuant to those Laws; and I conclude, next to treating of Carmen, (under the Head Scavengers) with the Statutes concerning Hackney Coaches and Chairs; Watermen, &c.

N.B. In a large Octavo Volume, called Parish-Law, lately published, the Author under most of his general Titles, hath notoriously transcribed whole Pages verbatim from me, but sometimes with great and very material Omissions; and wherever he has departed from my Book, he is in the greatest Wilderness, and frequently repeats the same Things over and over again, at least three or four Times, to swell and add to the Price of his extraordinary Treatise.

G. J.

The COMPLETE
Parish-Officer.

Of Constables.

THE several offices of constable, *Of high and*
headborough, boroughead, borf- *petty consta-*
holder, tithingman and chief pledge *bles, headbo-*
are in effect but two, that of con- *roughs, tith-*
stable, and that of headborough. *ingmen, &c.*
and their au-
thority.

Constables are of two sorts, constables of *Constables.*
hundreds and franchises, and constables in
towns and parishes within those hundreds or
franchises: and in comparison of the one
with the other, the first are called high con-
stables, and the latter petty constables.

Lambert in his duty of constables, &c. *fol. High consta-*
5. says that this Office of high constable was *bles.*
drawn from that of the high constable of
England, which was an office of great autho-
rity in deeds of arms and matters of war both
within and without the Realm; for the statute
of *Winchester*, anno 13 E. 1. c. 6. by which
these constables of hundreds and franchises
were first ordained (though, according to others,
B the

Constables.

the office of constable is of far greater antiquity. *Freem. Rep.* 348. *Salk.* 380. *Cro. Eliz.* 375) among other things appoints, that for the better keeping the peace, two constables in every hundred and franchise shall be chosen to make view of armour.

From this Mr. *Lambert* concludes, that the constable of a hundred or franchise, or high constable, is an officer appointed to preserve the king's peace within the precinct of his hundred or franchise.

Petty constables.

And according to the same author, petty constables in towns and parishes were devised about the beginning of the reign of king *Edward* the third, in aid of the high constables in hundreds and franchises, to keep the peace within the precincts of their respective towns and parishes.

Headboroughs, &c.

But the offices of headborough, borough-head, borsholder, tithingman and chief pledge, which are all one in effect, date their antiquity from the reign of king *Alfred*.

That monarch divided all *England* into shires, the shires into laths, the laths into hundreds, and the hundreds into tithings; and for the better preserving the peace, and suppressing thieves and robbers, he ordained that the people should divide themselves into companies, each consisting of ten families, who should be sureties and pledges for each other; so that if any offence against the peace was done by any one of that company, the rest should be amerced, unless they produced him.

In some places these companies were called tithings, because they contained the number of ten families; in other places they were called boroes, from the word borhes, which signifies pledges

pledges or sureties; and because it was then ordained that for matters of great weight ten of these companies should meet together at certain times, such meeting or assembly was called a hundred, as consisting of ten times ten families.

Every one of these companies, tithings or boroes used to chuse one man amongst themselves, to speak and act in the name of the rest; this person in some places was called the tithing-man, as being the principal man of the tithing; in other places he was called the headborough or boroughead, and in other places the chief pledge, and in some other places he was called the borsholder or boroes-ealder from borhes, which signifies pledges, and ealder, which signifies head or chief. In some shires, where every third borough hath a constable, the officers of the other two are called thirdboroughs.

If any man was found, who had no sureties, he was put into prison, until he could obtain some tithing or boroe to receive him; and in these tithings or boroes, several good orders were observed, and amongst others, first, that every man of the age of 12 years should be sworn to the king; secondly, that no man should be suffered to dwell in any town or place, unless he was received into some surety or pledge; thirdly, that if any of these pledges were imprisoned for his office, he ought not to be delivered without the assent of the rest of his pledges; fourthly, that no man should remove out of one tithing or boroe to dwell in another, without lawful warrant in that behalf. Lastly, that every one of these pledges should yearly be presented, and brought forth by their chief pledge at a gene-

Constables.

ral assembly for that purpose, which to this day is called the view of frankpledge, or court-leet.

By this we may form some idea of the nature of the original duty of the headborough, tithingman, &c. but their office at this day is much the same as that of the petty constable; for as the petty constables were devised in towns and parishes in aid of the high constables, so the tithingmen, headborough, &c. have been used as petty constables within their respective tithings and boroes; and yet not so universally, but that some of them at this day have no other but their old office; for in some parishes where there are several tithingmen in one parish, one of them only is the constable, and the rest serve as the antient tithingmen did.

Their power in former times.

Before justices of the peace were made, constables were conservators of the peace; they might put a man in the stocks who broke the peace, might arrest or imprison one for beating or maiming another, and had in many other particulars great power and authority; but they could not take security by recognizance or bail, because they were not officers on record. *Owen 105.* Though some have been of a different opinion, but that they lost this authority by the statutes, 3 H. 7. c. 3. & 1 & 2 P. & M. c. 13. which in giving that power to the justices of the peace, took it away from them. *Lamb. Eiren. l. 1. c. 3. fo. 15.*

Authority of high constables beyond petty constables.

The petty constables and tithingmen are not subordinate to the high constable in any thing that proceeds from his own authority merely, though his power is of a larger extent than others; and in places where there are no constables but tithingmen, &c. there the au-

thority

Constables.

5

thority of such parish officer equals that of the constable, within his limits; for he is in effect the constable of the place.

But headboroughs, tithingmen, &c. appointed in a town or parish, having also a constable, cannot principally concern themselves in any matter, the constables being head officers; though in the absence of the constable, they are chiefly to attend the service: and there are many things which a constable has power to do, that headboroughs and tithingmen cannot intermeddle with. *Dalt. 3.*

High constables are chosen either at the quarter-sessions, or in the court-leet; and where the latter is warranted by custom, the justices of the peace cannot interpose, unless it be on a neglect of keeping such court, or in chusing them, when the justices at their quarter-sessions may appoint and swear a high constable, or issue their warrant to do it out of the sessions; but in case of refusal to serve the office, death, or removal, a justice of peace may chuse and swear another, tho' this is generally done by two justices; and the person chosen is to continue in the office till the next court-leet, or the sessions, and then the stewards or justices may either approve him, or appoint another, to continue in for one year.

A man living within the jurisdiction of an inferior leet, may be chosen high constable in the leet of the hundred. *Freem. 348. 3 Keb. 197, 230, 251.*

If he is present when chosen, and refuses to take upon him the office, the steward may fine him; (justices of peace may likewise bind him over to the assizes, or sessions, where he may be indicted and fined.) If he does not appear, the homage are to present his refusal at the

Refusing the office, &c.

next court, whereupon he shall be amerced; and if he being present accept the office, he is to be forthwith sworn in the leet. If absent, upon notice given by the steward, he is to take the oath before a justice. *Sav.* 98. 8 *Co.* 38. 1 *Bulst.* 174. 1 *Salk.* 175, 502. 5 *Mod.* 124. *Skin.* 635. 1 *Raym.* 69. *Lilly's Ent.* 369. *Dalt.* 58, &c.

Petty constables, how chosen.

Petty constables and tithingmen are elected by the parish, and sworn in their offices in the court-leet, and sometimes by justices of peace in the sessions: In case any constable, &c. dies, or goes out of the parish, any two justices may make and swear a new constable, &c. until the lord of the leet shall hold a court, or until the next quarter-sessions, who shall approve of the said officers so made and sworn, or appoint others. If any officer continues above a year in his office, the justices at the quarter-sessions may discharge him, and put in another, until the lord of the manor shall hold a court. *Stat.* 13 & 14 *Car. c.* 12. §. 15. 1 *Mod.* 13. 2 *Keb.* 557. 1 *Bulst.* 174. *Moor* 845. 1 *Lev.* 233. The sessions may remove high constables and petty constables, the justices there being the best judges in these cases. 1 *Salk.* 150.

Deputies.

Dissenters chosen constables, are to make deputies for the execution of the office. 1 *W. & M.* And other persons may make deputies, though formerly it was doubted; but they must answer for their miscarriages, unless such deputies are sworn and allowed by the court. *Sid.* 355. *Cro. Car.* 389. 1 *Lev.* 233. And if the office happen on a Woman, where there is a custom for every inhabitant to serve by turns, she may hire one to execute the office. *Sid.* 355.

As

As for persons qualified for this office, they ought to be honest, understanding, and able men; to be men of substance, and not of the meaner sort; wherefore they are not to be elected by house, or custom, if not fit to execute the office: they are likewise to be resident where chosen; and if they are not thus qualified, upon complaint, two justices may appoint others.

Justices of the peace, clergymen, attornies, lawyers, physicians, ideots, poor, old, and sick persons, are exempted from serving. *Cro. the office.* Car. 389. 1 Jon. 462.

When constables are appointed, the steward of the court-leet, or the justices, administer to them the following oath.

YOU shall well and truly serve our sovereign lord the king, and the lord of this leet, (if appointed in the court-leet) in the office of a constable, in and for the hundred of A. or parish of, &c. until you be thereof discharged according to the due course of law, or for the year ensuing, and until another shall be sworn in your room; you shall from time to time well and truly do and execute all things belonging to the said office, according to the best of your knowledge.

Oath of constables.

So help you God.

Note; The oaths of allegiance and supremacy, appointed by Stat. 25 Car. 2. do not extend to constables, churchwardens, &c.

Formerly constables were sworn to several Articles, viz. To suppress and prevent affrays; arrest armed men; prevent bloodshed and drunkenness; apprehend felons; prevent gaming houses and gamesters; make hue and cry; punish idle persons, night-walkers, &c.

Antient oath;

Constables.

present rescues ; apprehend rioters ; punish vagabonds ; execute warrants ; keep watch, &c.

These are to be inquired into by all constables ; and the duty of a high constable alone consists in the following articles.

The duty of high constables alone.

To keep the peace, and oversee other parish officers.

Make presentments, execute warrants, and make returns, &c.

In respect of clothiers.

The high constable has the direction of the petty constables, headboroughs and tithingmen, within the hundred. His duty in general is to keep the peace, and apprehend felons, rioters, &c. to make hue and cry after felons ; and take care that the watch be duly kept in the hundred, and that the statutes for punishing rogues and vagrants be put in execution. He ought to present unlawful gaming, tippling and drunkenness, bloodshed, affrays, &c. To return all victuallers and ale-house keepers that are unlicensed, and such persons as entertain inmates ; he is to present bakers who sell bread under weight ; brewers selling beer to unlicensed ale-houses ; forestallers, ingrossers, &c. *Dalt. c. 28.*

He is likewise to present the defaults of petty constables, headboroughs, &c. who neglect to apprehend rogues, vagabonds and idle persons, whores, night-walkers, &c. and also all defaults in repairing highways and bridges, and the names of those who ought to repair them ; scavengers who neglect their duty, and all common nuisances : and he is to execute precepts and warrants directed to him by justices of peace ; and make returns to the sessions of the justices, to all the articles concerning his office. *Lamb. 125. Stat. 12 Ann.*

The high constable may determine complaints of clothiers and their spinners, and other labourers ; by virtue of an old statute relating to not paying wages in ready money, &c.

£c. which incurs a forfeiture of three times the value of the wages : and on non-payment of the forfeitures, £c. may commit the party till paid. *Stat. 4 Ed. 4. c. 1.*

A high constable may enter into any place to search for ropes, £c. for stretching of cloth, and if he finds any, he is to deface them ; and if the owners shall afterwards make use of them, such high constable has power to seize and sell them, and distribute the money to the poor. *Stat. 39 Eliz. c. 20.* Persons resisting the constable, forfeit 10 l.

High constables on their receiving monies *Monies received for* from church-wardens assessed on any parish *poor prisoners,* are to pay over *the same to the collectors appointed by the* the same to the collectors appointed by the *ers, &c.* justices at the quarter-sessions, on the penalty of 5 l. *Stat. 14 Eliz. c. 5.*

They are also to pay over monies received *In the King's Bench and Marshalsea.* for the relief of prisoners in the *King's Bench* and *Marshalsea*, under the penalty of 20 s. And so of money received for the relief of maimed soldiers and mariners, on pain of 40 s. *Stat. 43 Eliz. c. 3.*

High constables are to pay petty constables *In respect to* the allowances ascertained in certificates made *vagrants.* by justices for passing of vagrants, and no more, taking the certificates and their receipts ; which certificates and receipts are to be allowed the high constable in his account, by the treasurer of the county. *Stat. 13 Geo. 2. c. 24.*

One general county rate to be made by *A general* justices at their quarter-sessions, to answer all *rate levied* former distinct rates, which shall be assessed *by high con-* upon every parish, £c. and collected by the *stables, on all* high constables of hundreds ; and church- *parishes,* wardens and overseers of parishes, are out

New act
12 G. 2.
c. 29.

of money raised for the poor, to pay the same to high constables, in thirty days after demand, or it may be levied by distress and sale of the goods of such church-wardens, &c. by warrant of two justices.

Money paid
to treasurers
as county
stock.

High constables shall pay the money to treasurers appointed by the justices, which shall be deemed the publick stock; and be paid out to such uses as the justices in their sessions shall direct: and the high constables and treasurers to account before the justices, or be committed to gaol till they do it.

How applied by
justices.

No part of this money to be applied to the repair of any bridges, gaols or houses of correction, till presentment made by the grand jury at the assizes or quarter-sessions, of their want of reparation.

Appeal
where over-
rated.

Appeal may be brought to the next sessions, against the rate made on any particular parish, where they are over-rated. *Stat. 12 Geo. 2. c. 29.*

Jurors.

On warrants from the justices, they are to summon the petty constables to meet and prepare lists of persons qualified to serve on juries. *Stat. 4 W. & M. c. 24.* And on receiving such lists from the petty constables, they are to deliver them over to the quarter-sessions. *Stat. 3 G. 2. c. 25. §. 5.* A high constable failing to summon the petty constables, forfeits 10*l.* *Stat. 3 & 4 Ann. c. 18. §. 5.*

Constables in
London.

There being some variation in the manner of election, and the oath and office of constables in the city of *London*, with respect to other constables appointed in the country; I shall here communicate some observations relating to them, before I proceed to the particular business and power of constables.

And

Constables.

II

And first the city is divided into 26 wards, *Number of*
and every ward into the like number of pre- *constables.*
cincts, over each of which is a proper constable; so that there are in *London* 676 constables.

All these constables, it is said, ought to be *Manner of*
freemen of the city: they are nominated by *election.*
the inhabitants of the precinct on *St. Thomas's*
day, and confirm'd, or disallowed at the court
of wardmote; and after they are confirm'd,
they are sworn in their offices at a court of
aldermen, on the next *Monday* after *Twelfth-*
Day. *Calthr. Rep. p. 129.*

The substance of the oath is as follows: *Particulars*
of the oath.

To keep the king's peace to the utmost of
their power; to arrest affrayers, rioters, and
such as make contests to the breach of the
peace, and to lead them to the house of cor-
rection, or compter of one of the sheriffs; and
in case of resistance, to make outcry upon
them, and pursue them from street to street,
and from ward to ward, till they are arrested.

To search for common nuisances in their re- *Nuisances,*
spective wards; (being required by scaven- *defaults in*
gers, &c.) and upon request to assist the bea- *ordinances,*
dle and raker in collecting their salaries and *and death*
quarterage; to present to the mayor and mi- *of freemen.*
nisters of the city, defaults relating to the or- *Presentments.*
dinances of the city; to certify in the mayor's
court, once a month, the names and surnames
of all freemen deceased; and also of the chil-
dren of such freemen, being orphans.

And by the articles of the wardmote inquest, *Farther arti-*
constables are to certify the name, surname, *cles.*
place of dwelling, profession and trade of every
person, who shall newly come to inhabit in
their precincts, and to keep a roll thereof: in
order to this, they are to make inquiry, at
least

New comers least once a month, into what persons are into *parishes*, lately come to lodge and sojourn there: and if they find by their own confessions, or the records of the aldermens books, that such new comers are ejected from any other ward for bad living, or any misdemeanour, and refuse to find sureties for their good behaviour, warning is to be given to them and their landlords, that they depart; and on refusal, they may be imprisoned, and their landlords fined a year's rent, agreed for by such new comers. *Calth. Rep.* 138.

Watch in London.

Constables in each ward are to attend the watch by turns, one every night, and to go the rounds; and with the beadles every night are to warn such persons as are to serve upon the watch in their several precincts; and if they refuse to appear, the constable may hire others in their stead, and they shall pay the constable, according to the custom of the city. The common council appoint the watchmen.

Obstruſting conſtables.

They are to certify to the lord mayor and common council of the city, the names of all such persons as shall interrupt or hinder them in the discharge of their offices.

Extent of their power.

These are the antient articles of the oath, and extraordinary business of the constables of London; to which I am to add, that in the city of London by the custom, a constable is not only constable within the precinct for which he is chosen, but over all the ward, and over all the city of London; *per Wyld. Trin.* 30 *Car.* 2. *Anon.*

Nightly constables, and watch, how appointed by new act, 10 *Geo.* 2.

By a late Statute, the court of common council are to meet on the first of October yearly, and order a proper number of nightly

constables

constables, beadles and watchmen, for the city of *London* and liberties; and the aldermen and common council men of wards, are to make an assessment on the inhabitants, to bear the charge thereof.

The constables shall keep watch and ward, *Time of* from the tenth of *September* to the tenth of *watching,* *March,* from nine a clock in the evening till *and other busi-* seven the next morning; and from the tenth *nesses.* of *March* to the tenth of *September,* from ten in the evening till five next morning: and shall use their best endeavours, for preventing fires, robberies, and disorders, and arrest malefactors.

And they shall go twice or oftner about their *How often* wards, in every night; and the watchmen are *to go their* to apprehend all suspected persons, &c. and *rounds.* deliver them to the constable of the night, who shall carry them before a justice of peace.

And constables misbehaving themselves, shall *Misbehaving,* forfeit 20 s. And the lord mayor, or two *forfeiture.* justices of the city, may hear and determine offences, and levy penalties by distress of goods, &c. *Stat. 10 Geo. 2. c. 22.*

Such constables of *London* as are chosen into *Arms of the* the office, are obliged to place the king's arms, *city, &c. at* and the arms of the city, over their doors; and *their door.* if they reside in alleys, at the end of such alleys, towards the street, to signify that a constable lives there, and that they may be the more easily found when wanted.

The duty and authority in general of *Con-* Constables at stables in their several towns, parishes, &c. is *large.* much the same as the high constable's in his *Their business* hundred: they are to keep the peace, and *in keeping the* may break into a house to see the peace kept; *peace, &c.* make fresh pursuit into another county, &c. They may also command all persons to assist them,

them, and take into custody any whom they see committing a felony, or breaking of the peace; but a constable cannot detain a man at his pleasure, only stay him to bring him before some justice, to be examined and committed, &c. *Dalt. c. 18. H. P. C. 93, 135.*

He may arrest by his own authority a man who breaks the peace in his sight and presence. *Owen 105. Cro. Eliz. 375.*

He may arrest a person who obstructs and assaults him in the execution of his office. *Savile 97. 2 D. A. 149. p. 1.*

He may arrest a furious madman who does, or is likely to do mischief. *22 Aff. 50. Owen 98. St. 12 Ann. c. 23. St. 17 G. 2. c. 5.*

He may arrest a person who drops a child in a parish, with intent that it may perish, or the parish be charged with the keeping. *Owen 98. Cro. Eliz. 287. Moor 284. Poph. 12. 1 Leon. 327. 2 D. A. 149. p. 1, 3.*

*Where he
may break
open a house.*

For treason or felony, or suspicion of treason or felony, or where a man dangerously wounds another, so that his life is in danger, the constable may break a house to apprehend the offender; but request ought to be first made, that he be permitted to enter. *5 Co. 91. 1 Bulst. 146. 1 Brownl. 211.*

*Original
power of con-
stables.*

By the original power in the constable, he may for breach of the peace, and some misdemeanors less than felony, imprison a man: and if an offence be committed, for which a constable may arrest, he may convey the offenders to the sheriff or his gaoler; though the safest way in all cases is to bring them to a justice, and by him the prisoner may be bailed, or committed to prison, as the case shall require. *2 Hale's Hist. P. C. 88, 90.*

Part of their office consists in attendance on *Attendance* justices of peace, at courts leet, and on coro- *on justices,* ners for executing of warrants; they are like- &c. wise to attend upon judges of assize at the gaol-delivery, justices at the general and special sessions, and other meetings, to execute warrants; and present offences upon oath, according to articles exhibited, &c.

Their duty in particular is to be considered *Particular* under the several heads following, &c. *duties of con-* frays, alehouses, arms, arrests, artificers, *stables.* assault, bakers, bastardy, bawdy-houses, beggars, bridges, butter, buttons, cambrics, carriages, cattle, clothiers, coals, conventicles, corn, curriers, customs, deer-stealing, deserters, distillers, distresses, drunkenness, dyers, escapes, excise, felons, fire, fish, forcible entry, foreign goods, forestallers, game, gaming, gaol and gaolers, gunpowder, hawkers, hay-market, hedge breakers, highways, hops, horses, houses of correction, hue and cry, inns, juries, labourers, lamps, land-tax, lunatics, madmen, maltsters, measures, militia, night-walkers, orchards robbed, physicians, plague, players, popish recusants, post letters, presentments, prisons, prisoners, riots, rogues, robbery, sail-cloth, salt, servants, shoemakers, smugglers, soldiers, spirituous liquors, sundays, *Superstitions,* swearing, taylors, tithes, tobacco, turnpikes, vagrants, warrants, watch, watermen, weights, wrecks, &c. And first the authority of constables in affrays.

Affray is a fighting between two or more *Affray,* persons, and there must be a stroke given, or *what.* a weapon drawn, to make an affray.

A constable may command affrayers to de- *Affrayers to* part on pain of imprisonment; and if they *d part.* refuse,

refuse, or make resistance, he may justify the beating them, and call others to his assistance.

Dalt. 35. 4 *Co.* 4.

*Set in the
stocks on resi-
stance, or
continuing.*

Affrayers not ceasing, but still threat'ning to wound each other, he may put them in the stocks till he can carry them before a justice; or if any assault be made upon the constable, he may not only defend himself, but put the party in the stocks, as aforesaid, till he can convey him before a justice, or to the gaol.

Dalt. f. 4, 5, 35, &c. *Kitch.* 69.

*Persons
making af-
frays may be
put in prison.*

In case of any sudden affray, through passion, or excess of drink, the constable may put the affrayers in prison, if there be one in the vill, till the heat of their passion or intemperance be over, tho' he deliver them afterwards; or until he can have them before some justice of peace. 2 *Hale's Hist. P. C.* 95.

*Affrayers no
remedy.*

And if a constable, or his assistants, shall happen to be killed, it is murder; and if they are wounded in the affray, they shall have good damages; but the affrayers in such case shall be without remedy. *Lamb.* 141, 142.

*When a war-
rant neces-
sary, and
when not.*

If any person shall assault, threaten to kill or beat another in the presence of a constable, or do any other act which amounts to a breach of the peace, the constable has power to carry the offender before a justice without warrant; but if the affray or breach of the peace is over before he comes, he may not arrest the affrayers without a justice's warrant, except some person be dangerously hurt. And if there be nothing but words, the constable may not lay hands on them. *Dalt.* 36. 38 *H.* 8. c. 6.

*Persons dan-
gerously hurt.*

If a person be desperately wounded in an affray, the constable may arrest the offender, and carry him before a justice, who is either

to bail, or commit him, until it be known whether the party shall live or die. Any person has power to arrest affrayers, where there is a dangerous affray, and deliver them to the constable. *Dalt.* 35. 4 *Co.* 4.

A constable may pursue affrayers into any *Affrayers* other franchise or county; but out of the *pursued into* county he is only an assistant to the constables *another* there; and he may justify the breaking open *county.* doors to apprehend affrayers, and keep the *Breaking* peace. *Plowd.* 37. *Crompt.* 146. *Lamb.* 135, *open doors.* 185, &c.

All this the constable may do *ex Officio*, without command or precept from a justice, except as above, where an affray is over before he has notice; and it has been held, that constables might *ex Officio* take sureties for the peace, *Trin.* 35 *Eliz.* *Skarret's case*: but it *Sureties of* was then the opinion of others that he ought *the peace.* to carry the offender before a justice; and our antient books tell us, that a constable may not, at the request of any person, take surety of the peace, though he is to do what lies in his power to keep the peace. 3 *Hen.* 4. *cap.* 9. *Kitchen* 62. *Crompt.* 6, &c. *Lamb. Eiren.* l. 1. c. 3. f. 15. *Owen* 105.

If persons make an affray, and the constable *Constables* refuses to go to keep the peace, being in- *neglecting,* formed of it, he may be fined in the sessions, *punishment.* on presentment by the grand jury. *Crompt.* 846.

What I shall mention under this head, is the *Alehouses.* punishment for neglects of constables.

If the constable do not levy the penalty of *Unlicensed* 20 s. by distress for the poor, inflicted on per- *alehouse-* sons keeping alehouses without license; or if *keepers.* there be no distress, he neglects to whip the offender,

offender, he is liable to a forfeiture of 40 s. or to commitment till the alehouse-keeper is punished. *Stat. 1 Jac. 1. c. 9. 1 Car. 1. c. 4.*

Selling ale to such.

Not delivering the poor's moiety of the penalty of 6 s. 8 d. per barrel, for selling ale to an unlicensed alehouse-keeper, over to the church-wardens, &c. and they not distributing it to the poor, forfeit double the value. *Stat. 4 Jac. 1. c. 4.*

Selling less than measure.

And not levying 20 s. on alehouse-keepers for selling less than measure, he forfeits 40 s. to the use of the poor, to be levied by distress; and if no distress, to be committed. Selling in unmarked vessels, &c. incurs a forfeiture not above 40 s. nor under 10 s. one moiety to the informer, the other to the poor. 11 & 12 W.

Tippling, penalties, &c.

Not levying 10 s. on alehouse-keepers for suffering persons to sit tippling, to forfeit *ut supra.* *Stat. 1 Jac. 1. 21 Jac. 1. c. 7.*

Also not levying 3 s. 4 d. on persons convicted of tippling, forfeits 10 s. But in all these cases, there must be a justice's warrant.

Alehouse-keepers in London.

A duty was granted by a late act to be paid by alehouse-keepers in *London* and *Westminster*; leviable by the commissioners of excise; who granted permissions for retailing beer or ale, &c. *Stat. 12 Geo. 1. c. 12.* but this duty not answering, it is repealed by 16 Geo. 2. c. 12.

New act 12 Geo. 1. repealed.

2 Geo. 2.

Distillers selling brandy by retail, are to be licensed as common alehouse-keepers, by *Stat. 2 Geo. 2. c. 28.*

See *Inns* and *Inn keepers.*

Constables may stop all such persons as go **Arms.**
 or ride unlawfully armed, in terror of the *To seize per-*
 people; take away their arms, and carry *sons armed.*
 them before a justice of the peace, to find
 sureties of the peace. 2 *Ed. 3. c. 3. 7 R. 2.*
Dalt. 35.

His Majesty's servants or officers, persons *Who may*
 pursuing hue and cry in case of felony, and *bear arms.*
 other offences, have lawful authority to bear
 armour or weapons. *Dalt. c. 9. f. 36. 3 Co.*
Inst. 162.

Constables are to assist such persons who have *Search for*
 a warrant from the lieutenancy to search for *arms.*
 arms, &c. but it must be in the day-time, un-
 less in towns; and if resisted, they may enter
 with force: and high constables, petty consta-
 bles, &c. shall be assisted by others.

If a private person arrest another, as in case **Arrests**
 of dangerous affrays, suspicion, or knowing *by private*
 one to have committed felony, or one that has *persons, in*
 violently wounded another, night-walkers that *what cases*
 are dangerously suspicious, &c. which he may *made.*
 justify the doing; he ought to carry and de-
 liver the offender to a constable, headborough
 or tithingman, and they are bound to secure
 the party arrested. 10 *Ed. 4. c. 6. Dalt. 468.*

Where persons are arrested for felony, if *Offenders de-*
 they are not delivered to a constable, to be *liver'd to the*
 carried before a justice, &c. it will be deemed *constable.*
 an escape. *Dalt. 368.*

For debt under 10 *l.* a person shall not be *How for debt.*
 arrested by bailiffs, &c. *Stat. 12 Geo. 1.*

Any artificer contracting or preparing to go **Artificers**
 out of the kingdom, on complaint a justice of *going out of*
 peace may send his warrant to the constable, *the kingdom.*
 &c. to bring the party before him, and he
 may

Constables.

may bind him over to the next quarter-sessions, where he must give security not to depart the realm. *Stat. 5 Geo. 1. c. 27.*

Punishment inflicted.

Not giving such security, he shall be imprisoned; and persons contracting with artificers to go, shall be fined not exceeding 100 *l.* and suffer three months imprisonment.

Disability.

Artificers going abroad, not returning in six months after warning given, are disabled to hold any lands, &c.

Affault. See *Affray.*

An assault with intent to rob, is felony. *Stat. 2 Geo. 2.*

Bakers.

Affize of bread.

Bakers not observing the affize of bread, are to be set on the pillory, &c. *Stat. 5 H. 3.*

Bakers selling bread under weight.

By 8 *Ann. c. 18.* A penalty of 40 *s.* was inflicted on bakers, selling bread under weight, deficient in goodness, &c. But the 1 *Geo. 1. c. 25.* enacts, that if any baker shall make or expose to sale bread wanting an ounce of due weight, he shall forfeit 5 *s.* and wanting less than an ounce, 2 *s.* 6 *d.* to be levied by a constable.

Bread to be seiz'd, and given to the poor.

A justice of peace, mayor, &c. may in the day time enter any shop, bakehouse, &c. to search for, and weigh and try bread: and if the bread be wanting in goodness, or deficient in weight, may seize the same, and give it to the poor.

Price of bread to be set by justices, &c.

Bakers selling their bread, consisting of peck, half peck, or quartern loaves, at a higher price than set by the lord mayor of London, or by the mayors, &c. of towns, or two justices of peace, where there are no mayors, shall forfeit 10 *s.* to the informer, to be

Constables.

21.

be levied by distress by constables, &c. *Stat. Geo. 2. c. 29.*

The constable of a parish is to apprehend **Bastardy.**
mothers of bastard children, that are likely to become chargeable to the parish. *Dalt.* *To apprehend mothers of bastards.*

It has been held, that, if any person drops a child in a parish, with intent either that it may perish, or the parish be charged with the keeping it, the constable may put such person into the stocks, and detain him till he agrees to take away the child. But the safer method is to carry the party before a magistrate. *Cro. Eliz. 287. Owen 98. Moor 284. Poph. 12. Leon. 327. 2 D. A. 149. p. 1, 3.*

A constable having information that persons resort to a common bawdy-house, and there keep company with lewd women, may with others call'd to his assistance, enter such house, and arrest the offenders for a breach of the peace. *Mich. 13 H. 7.* But he must find them in company with lewd women, and he is to carry them before a justice of peace, which he may do without warrant, and the justice may bind them to the good behaviour. *Dalt. 214, 469.*

In former times, sturdy beggars convicted of a second offence, were to suffer as felons. *Stat. H. 8.* Persons making themselves impotent, to be qualified for begging, may be indicted and fined. *Co. Lit. 127.*

And beggars are to be whipt by constables as vagrants, if they continue to beg in streets, &c. by *Stat. 13 Geo. 2.* See *Vagrants.*

Where

Bridges.

Where a common bridge is in decay, and *Assessment for* it cannot be known who are to repair it; the constable and two of the most able inhabitants in the parish, are to make an assessment, and four justices of peace to allow it. 22 H. 8.

By whom

Bridges ought to be repair'd by the inhabitants of the whole county, unless some particular persons are bound thereto by reason of tenure of their lands, &c.

Walls or rails on bridges.

All bridges shall have walls, or posts and rails on each side, four feet high, and be kept sufficiently repaired. And the taxation for repairs of bridges, shall not be made by the justices, without consent of the constables or inhabitants, nor by them without the justices. Stat. 14 Car. 2. c. 6. 2 Co. Inst. 704.

How bridge-money levied and applied.

Justices in sessions, on presentment that a bridge is out of repair, may assess every town, parish, &c. in proportion towards the reparation thereof, the money assessed is to be levied by the constables or headboroughs, &c. by distress and sale, if not paid in ten days; and then must be paid to the high constables of hundreds, who are to remit the same to treasurers, &c. Stat. 1 Ann. c. 18.

Neglects therein, &c.

And if any of the officers neglect to assess, collect or pay the money, they shall forfeit 40 s. Collectors, &c. of the tax, are to be allowed 3 d. per pound. Ibid.

Indictments, and fines set.

On an indictment for not repairing of bridges, a fine may be set by the justices in sessions, upon any inhabitants of the county, being made defendant to the indictment, who shall have contribution from the rest. 6 Mod. 307.

Justices

Justices of peace in sessions may restrain **Butter.**
retailing butter and cheefe, which are to *Butter re-*
be sold in open shop, &c. 3 & 4 Ed. 6. *tail'd in*
21. *shops.*

And corrupt butter is not to be mix'd with *To be good,*
good, on pain to forfeit double the value: also *and sold in*
buyers of butter are to set their marks on *casks mark'd.*
casks, &c. And if the sellers open the casks,
or put in other butter, after the casks are thus
mark'd, they are liable to the penalty of 20s. *Under penal-*
eviable by a constable. 14 Car. 2. 4 & 5 *ties.*
W. & M.

By virtue of a justice's warrant, constables **Buttons.**
shall levy the penalties on taylors for making *Cloth buttons,*
any cloaths with buttons or button-holes of &c. *probi-*
cloth, stuff, &c. And also on the wearers of *bited.*
the cloaths, being 40s. per dozen. Stat. 4 &
Geo. 1.

After the 24 June 1748. It shall not be **Cambrics.**
lawful for any person to wear in any garment *Penalty for*
or apparel, any cambric or French lawn, un- *wearing*
der the penalty of forfeiting to the informer *cambrics or*
1. for every offence upon conviction before French
one or more justice or justices, on informa- *lawns.*
tion upon oath, exhibited within six days after
the fact committed, to be levied by distress
and sale of the offender's goods. Stat. 18
Geo. 2. c. 36. §. 1.

The seller is liable to the same penalty.
Same Stat. §. 2. Any person prosecuted for
wearing cambrics, shall be discharged if he
will discover the person who sold it. Same
Stat. §. 3.

When

Carriages. When a justice of peace issues out orders to
Allowance constables, to provide carriages on the march-
for providing ing of soldiers, the constables are to do it, be-
carriages, by ing allowed by the officers, 1 s. a mile for a

Stat. 3 G. 1. waggon with five horses, or a wain with six
 oxen, or four oxen and two horses, and 9 d.
 a mile for a cart with four horses, and so in
 19 *Geo. 2.* proportion. *Stat. 3 Geo. 1. c. 3. Stat. 19*
Geo. 2. c. 11. §. 35.

Forcing
horses, &c.

Officers obliging constables to provide saddle
 horses, forcing horses from owners, &c. or
 making a carriage travel more than one day,
 or not discharging the same in due time, to
 return home, or suffering the soldiers or ser-
 vants (except such as are sick) or any woman
 to ride in the waggon, &c. forfeit 5 l. *Stat.*
1 Geo. 1. c. 3. Stat. 19 Geo. 2. c. 11. §. 35.

Neglect of
constables,
&c. how pu-
nished.

Constables neglecting or refusing to execute
 justices orders, or any other person hindering
 the execution thereof, shall forfeit not exceed-
 ing 40 s. nor under 10 s. to the poor. *Stat.*
3 Geo. 1. c. 3. Stat. 19 Geo. 2. c. 11. §. 36.

If a constable is at a greater expence than
 what is before allowed for providing carriages,
 he is to be reimbursed by the treasurer of the
 county, according to such orders as the justices
 without fee or reward shall make at the quar-
 ter-sessions. *Stat. 19 Geo. 2. c. 11. §. 36.*

What weight
waggons to
carry.

No waggon shall be obliged to carry above
 twenty hundred weight. *Stat. 19 Geo. 2. c. 11.*
§. 38.

Horses be-
longing to
waggons,
when seized.

The horses of waggons, having more than
 their number allowed by statute, which may
 be seized as forfeited, are to be delivered to
 constables, &c. and by them re-delivered to
 the seisor, on conviction before a justice. *Stat.*
5 Geo. 1. c. 12.

Constables

Constables, tithingmen, church-wardens, **Cattle** overseers of the poor, or any other persons, *imported from* may take and seize all cattle, sheep, swine, Ireland.

beef, pork, bacon, &c. brought from *Ireland*: and cause the said cattle to be kill'd in six days after conviction of the offence, and the hides and tallow shall be to the seizer, and *Forfeited*. the remainder to be distributed by the church-

wardens and overseers amongst the poor of the parish where imported, or found. *Stat. 18 Car. 2. c. 2. 20 Car. 2. c. 7. 32 Car. 2. c. 2.*

Constables, or others seizing cattle, &c. im- *Officers not* ported out of *Ireland*, and not giving notice in *doing their* six days after the conviction, to church-war- *duty*.

dens and overseers, of such seizure; and they not distributing all but the hides and tallow to the poor, forfeit 40*s.* for every one of the *Forfeiture*.

great cattle, and 10*s.* for every sheep or wine; one moiety to the poor, the other to the informer; or to be committed to gaol for three months. *Stat. 32 Car. 2. c. 2.*

Cattle found alive in any other parish after *Second sei-* they have been seized, are liable to a second *zure*. seizure: and if there be any *English, Scotch,* or other cattle intermixed with *Irish*, they shall be forfeited.

Persons that drive away, steal or kill sheep, *Stealing cat-* or any other cattle, with an intent of stealing *tle, or car-* their carcasses, or part thereof, are guilty of *caffes, felony*. *Stat. 14 Geo. 2. c. 6. 15 Geo. 2.*

c. 34.

Constables, on request, are to be aiding and **Cloth and** assisting to the wardens and assistants of the **Clothiers.** weavers of *Norwich* stuffs in the city of *Norwich* *Regulating* and county of *Norfolk*, in regulating that part *Norwich* of the cloathing trade. *Stat. 14 Car. 2. c. 5. stuffs.*

C

And

Kidderminster stuffs.

And they are likewise, upon request, to be assisting to the president, wardens, &c. for regulating the making of *Kidderminster* stuffs, in the borough of *Kidderminster*. *Stat. 22 & 23 Car. 2. c. 8.*

Power of high constables.

High constables may hear and determine complaints of clothiers and their work people, and commit the last till they make satisfaction for damages. *4 Ed. 4.*

Using deceitful stuff.

If any person make use of flocks, hair, or other deceitful stuff in making broad cloth, or certificate by two justices, he shall forfeit 5*l.* to be levied by church-wardens and overseers of the poor, &c.

Searchers of cloth.

And justices are to appoint searchers of cloth yearly, who shall fix their seals to it, &c. *Stat. 39 Eliz.*

Work people detaining wool.

Spinsters, &c. imbeziling or detaining any wool from clothiers, shall make satisfaction or be whip'd or put in the stocks by constables, &c. *Stat. 7 Jac. 1. c. 7.* It is made a forfeiture of double value, by *1 Ann.*

Length of broad cloths.

Broad cloths are to contain the quantity mentioned in the seals, or the seller shall forfeit a sixth part. Millmen refusing to fix seals, and others defacing or counterfeiting, &c. forfeit 20*l.* Cloths are not to be stretched above one yard in twenty in length: They are to be measured by two indifferent persons chosen by the buyer and seller, or on their disagreement, by a person appointed by chief magistrates of towns, &c. *Stat. 10 Ann. c. 11*
1 Geo. 1. c. 15.

Combinations of weavers punished.

12 Geo. 1.

The *Stat. 12 Geo. 1. c. 32.* was made against combinations of weavers, in the cloathing trade for advancing their wages, &c. and for punishing the same: And if any weaver return his work unfinished, &c. he shall

be sent to the house of correction for three months.

It is ordained that clothiers must pay their *Wages, how* work people their full wages in money, and *paid.* not in goods, on pain of 10*l.*

Clothiers are to give out all wool, yarn, *Work given* &c. by weight; and not use any ends of *out, &c.* yarn, or other refuse, by working them up again, under the penalty of 5*l.* leviabie by *Penalties.* constables, by warrant of two justices of peace. And constables by such warrant may enter and search houses for ends of yarn, &c.

13 Geo. 1.

Where Persons imbezil any woollen mate- *Imbezilers of* rials, &c. they shall forfeit double value; or *wool, how* be sent to the house of correction, and there *punished.* whipped, and kept to hard labour 14 Days: And for a second offence forfeit four times the *Second offence,* value, &c. to be levied by constables. 13 Geo. *Forfeiture.* 13 Geo. 2.

1. cap. 8.

By virtue of a justice's warrant, constables *Search for* are also to search for cloth taken away in the *cloth taken* right from tenters, and yarn or wool left *from tenters,* out to dry, and levy by distress a forfeiture *&c. new act,* of treble value on offenders. Stat. 15 Geo. 2. 15 Geo. 2. 27.

The sack of coal is to contain four bushels *Coals.* of clean coals: And sea-coals brought into *Measure and* the river *Thames,* and sold, shall be after the *price of coals* rate of 36 bushels to the chaldron, &c. The *in London,* lord mayor and aldermen in *London,* and the *&c.* justices of the peace of counties, are empowered to set the price of all coals to be sold by retail, and may appoint officers to see them sold at the rates appointed. 7 Ed. 6.

c. 7. 16 & 17 Car. 2. c. 2. 17 Geo. 2. c. 35.

*Bushels and
sacks to be
stamp'd.*

And by the late act for regulating the coal trade, sellers of coals are to keep a lawful bushel edged with iron, and seal'd or stamp'd; and using other measures, or altering them, incurs a forfeiture of 50*l.* There must be three bushels to each sack; and the sacks are to be marked, and be four feet and two inches in length, and twenty-six inches in breadth, on pain of 20*s.* &c. Stat. 3 Geo. 2. c. 26.

*Penalties how
recovered.*

The penalties under 5*l.* inflicted by this statute, are recoverable on complaint before the lord mayor of London, or any justice of peace, to be levied by distress by constables, &c. and for want thereof the offender may be committed to the house of correction, not exceeding 30 days. Stat. *ibid.*

*Coal-meters
appointed for
Westminster,
&c.*

Land coal-meters are appointed for the city and liberty of Westminster, that part of the duchy of Lancaster adjoining thereto, the parish of St. Giles in the Fields, St. Mary le Bon, and such part of the parish of St. Andrew Holborn as lies in the county of Middlesex, and all contracts for coals, not being less than five chaldrons, shall be for pool measure, including the ingrain of one chaldron, though the term of pool measure shall be omitted in the contract. Coals sold as wharf measure to be measured in the presence of a coal-meter. The seller to pay 4*d.* a chaldron for metage. Tickets to be delivered to the carman, and by him to the consumer, under the penalty of 5*l.* Coals exceeding the quantity of eight bushels being sent by a cart without a ticket, a penalty of 50*l.* is incurred. Coals exceeding that quantity, not to be sent

but in the presence of a coal-meter. Consumer declaring himself dissatisfied with the measure, the driver of the cart not to depart till a coal-meter can be procured. All forfeitures not exceeding 5*l.* are to be levied by distress, one moiety to the informer, the other to the poor; and in default of distress the offender to be committed to hard labour for not more than 30, nor less than 14 days. *Stat. 19 Geo. 2. c. 35.*

Constables, headboroughs, tithingmen, Convent- church-wardens, &c. are required to levy the fines imposed on those, who shall be present at unlawful conventicles, by virtue of a warrant under the hand of one or more justices. *Fines levied.*
22 Car. 2. c. 6.

Constables, &c. knowing, or being credibly informed, of any conventicle within their precincts, and not giving information thereof to some justice of peace, or chief magistrate, and endeavouring to convict the persons, forfeit 5*l.* *Not giving notice of conventicles.*
22 Car. 2. c. 6. Penalty.

On information given of conventicles, constables, &c. with aid and assistance, may, by virtue of a warrant from a justice or chief magistrate, (upon refusal to enter) break open doors, and enter into any house or place, where they are informed such conventicles are held, and take into custody persons unlawfully assembled. *To enter into houses where conventicles are held.*
Ibid. Stat.

The houses of peers not to be searched, unless in the presence of the lord lieutenant, or two justices of the peace. And protestant dissenters are excepted out of this act. *Exception. Protestant dissenters excepted.*
1 W. & M. c. 24. Stat. But if any assembly of dissenters shall be held in any place, with the doors locked or bolted during the time of service; *But not if they lock the doors.*

vice; they are liable to prosecution, as others, notwithstanding taking the oaths, &c. directed by act 1 W. & M.

Plea for executing the act. Any person sued for acting according to the Stat. 22 Car. 2. may plead the general issue, and give the special matter in evidence, and recover treble costs. Stat. 22 Car. 2. c. 1.

Corn.

When may be transported. Corn may be transported to states in alliance, when wheat, barley, malt, &c. do not exceed certain prices, by several statutes. 12 Car. 2. c. 4. 1 W. & M. c. 12, &c.

Persons hindering it, how punished.

Persons that violently hinder others from carrying corn to any sea-port town to be exported, by seizing horses, or stopping carriages, &c. may be imprisoned by two justices three months, and be whipped by constables, &c. And for a second offence, or destroying corn in granaries, &c. to be guilty of felony and transported; and the hundred where done, to make good damage, if under 100 l. and Offenders not apprehended and convicted in twelve months. 11 Geo. 2. c. 22.

But corn not to be now exported.

Except by proclamation.

But no sort of corn, meal, flour, &c. may be now exported to foreign countries, unless by the king's proclamation, upon pain of forfeiting 20 s. for every bushel of corn, and 12 s. for every pound weight of meal, &c. Stat. 14 Geo. 2. c. 3. 15 Geo. 2. c. 35.

Curriers.

The penalty inflicted on curriers, for not currying leather sufficiently, is leviable by the constables, &c. Stat. 1 Jac. 1. by justices warrant.

Constables.

31

And they are to levy by a justice's warrant, the forfeiture of 5 *l.* where any currier doth not curry leather sent him within 16 days between *Michaelmas* and *Lady-Day*, and in eight days at other times. *Stat. 12 Geo. 2. c. 25.*

Customs are certain duties and impositions **Customs** upon goods and merchandize imported and *defined.* exported, payable to the crown.

And constables, &c. are to be assisting to *Constables to* all persons appointed by the King for the col- *assist officers.* lecting and managing of the customs. *Stat. 14 Car. 2. c. 2.*

They are, upon request, to assist persons *To search for* having a warrant from the lord treasurer, ba- *goods, &c.* rons of the exchequer, or chief magistrates of ports, to make search for goods which have not paid the customs; and may enter into any house in the day time, and if resisted, break *Break doors.* open doors. But this last must be within a month after the offence committed. *Stat. 12 Car. 2. c. 19.*

Constables and others, may take up persons *Suspected per-* that lurk about the sea-coasts, suspected to be *sons on the* concerned in running goods, and carry them *coasts to be* before a justice, who, not giving a good ac- *taken up.* count of themselves, shall be sent to the house of correction for a month; and 20 *s.* shall be paid for every offender taken. *Stat. 9 Geo. 2. c. 35.*

And three or more persons assembled and *When guilty* armed with fire-arms, &c. to be assisting in *of felony, and* the running, landing, or carrying away goods *transported,* uncustomed; or found passing within five *by 9 Geo. 2.* miles of the sea, with any horses whereon shall be more than six pounds of tea, or five gallons of brandy, &c. landed without entry;

and that obstruct or assault any officer of the customs, &c. are guilty of felony, and shall be transported. *Stat. ibid.*

Reward for taking.

Also a reward of 50 *l.* is to be paid for apprehending persons so armed and assisting, &c.

Tea or brandy, &c. offered to sale, may be seized. And seizers have a third part, &c.

And by this statute, where any person offers brandy, or tea, &c. to sale, without a permit, persons may seize and carry the same to the next warehouse belonging to the customs or Excise, and shall have a third part on condemnation, &c. 9 *Geo. 2.* 15 *Geo. 2. c. 33.* 18 *Geo. 2. c. 28.*

Where smuggling adjudged felony.

Any persons to the number of three or more, being armed, who shall assemble, and be aiding in the illegal exporting or running of goods, &c. or appear disguised with such goods, and resist the officers in the execution of their duty, shall be adjudged guilty of felony, and suffer death.

Deer-Stealing.
Penalties how levied.

The penalties on deer stealers are to be levied by constables, by virtue of a warrant from a justice of peace; and constables may detain offenders two days, if they do not pay the forfeitures down upon conviction, until a return may be made of the warrant of distress. *Stat. 13 Car. 2. c. 10.*

Penalties particularized.

The forfeitures are 20 *l.* for coursing or hunting deer in any park or place inclosed, and 30 *l.* for every deer taken, wounded and killed; one third part to the poor, another to the informer, and the other third to the owner of the deer. *Stat. 13 Car. 2. c. 10.* 3 & 4 *W. & M.*

Constables to search suspected places, &c.

Constables may enter any suspected place, and carry away venison, skins of deer, toils, &c. by warrant from one justice, and likewise

wife carry the Offender before the justice, to give an account how he came by the same.

By Stat. 5 Geo. 1. c. 15. park-keepers killing deer without consent of owners, shall forfeit 50*l*. And persons pulling down walls, &c. of parks, are liable to the penalties for killing deer. *Penalty by new act 5 Geo. 1.*

Deer stealers convicted before a judge of gaol-delivery, may be sent to the plantations for seven years, by this statute.

And if any persons armed with swords, fire-arms, or other weapons, and having their faces blocked, &c. shall appear in any forest or park, and unlawfully hunt or kill any deer, rob any warren, &c. it is felony without benefit of clergy. *Act against Waltham Blacks, &c. 9 Geo. 1. Stat. 9 Geo. 1. c. 22.*

See Riots.

Any constable, &c. has Power to take up a person suspected of desertion, and to bring him before a justice; and if, upon Examination, it shall appear that he is a listed the justice shall commit him to the county-gaol, and give an account thereof to the secretary at war. 20*s*. reward for apprehending a deserter, to be paid by the collector of the land tax, on warrant for that purpose from the justice of peace. *Deserters. To apprehend them, &c. Soldier, Stat. 1 Geo. 1. c. 3. 19 Geo. 2. c. 11. §. 43, 44.*

And persons harbouring, concealing or assisting a deserter, shall forfeit 5*l*. *Same Stat. §. 45.*

Constables shall be assisting to the officers of excise, in entering the houses of distillers, *Distillers. Entering distillers houses, and levying penalties.*

to make search after and seize unlawful stills ; and they are to levy the penalties for setting up any private still, tun, pipe, &c. by virtue of a justice's warrant. *Stat. 3 & 4 W. & M. 10 & 11 W. 3. c. 4.*

Persons selling brandy about streets, &c.

Distillers are to pay certain duties, and make an entry of all warehouses, still-houses, &c. And persons hawking or selling brandy or other distilled spirituous liquor about streets in wheel-barrows, or on any bulk, shed, &c. shall forfeit 10*l.* leviable by constables, by warrant of justices, &c. *Stat. 6 Geo. 1. c. 17.*

Large duties on retailing brandy, &c. repealed.

The statute 9 *Geo. 2.* laid a very large duty on brandy, &c. sold by retail by distillers, and on licenses for retailing the same ; but these duties are taken off and repealed by the late act 16 *Geo. 2. c. 8.*

But no persons shall retail any distilled spirituous liquors, without first taking out a license from the commissioners of the Excise, &c. and paying 20*s.* yearly, under the penalty of 10*l.* or to be committed to the house of correction, and conveyed thither by constables, where they shall be kept to hard labour for two months. *Stat. ibid.*

New Act 16 Geo. 2.

Licences, to whom only granted.

These licenses are to be granted only to persons that keep taverns, victualling houses, inns, coffee-houses or alehouses. And none shall be deemed a retailer, who does not sell spirituous liquor in less quantities than a pint. *Ibid.*

But if such tavern-man, &c. shall afterwards, during his licence, exercise the trade of a distiller, grocer or chandler, or keep a
brandy

brandy shop for sale of spirituous liquors, his licence to be void, and he forfeit 10*l.* for every offence. *Stat. 17 Geo. 2. c. 17. §. 18.*

Every person, who by himself or any other *Who deemed* for his benefit, shall retail spirituous liquors, *a retailer.* mixed or unmixed, in less than two gallons, without a licence, to be deemed a retailer, and forfeit 10*l.* for every offence. *Same Stat. §. 19.*

Penalties and forfeitures by the statute 16 *Geo. 2.* and by the statute 17 *Geo. 2. c. 17* may be sued for, recovered, levied and mitigated in the same manner as any penalty, &c. may be sued for by any Laws of excise. *Same Stat. §. 16.*

Justices may, if they think proper, in *Punishment* stead of levying the penalty, commit the *by hard la-* offender to the house of correction, to be *bour and* kept to hard labour for two months, who be- *whipping.* fore discharged shall be whipt. *Same Stat. §. 17.*

And then the commissioners of excise to *Reaward to* cause such sum, not exceeding 5*l.* to be paid *informer.* to the informer, as they shall judge meet. *Same Stat. §. 20.*

The constable in taking distresses, is to *Distresses.* assist the landlord or person distraining; as *Constables to* where any goods or chattels shall be taken in *assist in ta-* distress for any rent reserved, and due upon *king a distress.* any demise, lease or contract: and the tenant and owner of the goods shall not within five days after such distress taken, and notice thereof given, and of the cause, left at the dwelling house, or most notorious place on the premises charged with the rent distrain'd *Manner of* for, replevy the same according to law: *taking a di-* then the landlord, or person distraining, may *stress.* with

Goods appraised and sold.

with the sheriff, or under-sheriff of the county, or with the constable of the hundred, parish, or place where the distress shall be taken, (who are required to be aiding and assisting therein) cause the goods and chattels to be apprais'd by two sworn Appraisers, and afterwards sell the same for the best price, towards satisfaction of the rent and charges of making the distress, appraisement and sale, leaving the overplus in the sheriff's or constable's hands for the use of the owner. *Stat. 2 W. & M. c. 5.*

Oath to be administer'd.

The under-sheriff, constables, &c. are to administer an oath to the appraisers, to appraise the goods truly; and if the appraisers value goods distrained too high, they shall be obliged to take them at the appraised price.

Appraiser's Oath.

YOU shall swear, that you will faithfully appraise and value the goods now taken in distress, and mentioned in the inventory to you shewn, as between buyer and seller, according to the best of your skill and understanding: you shall not through partiality, interest or otherwise, over or under estimate the said goods, but shall impartially do your duties herein.

So help you God.

Inventory of goods distrained, &c.

An inventory of the goods seized and distrained by *A. B.* of, &c. in the House of *C. D.* of the same place, or in, &c. Street, London, for ten pounds, being one half-year's rent due to the said *A. B.* at Lady-Day last: Taken the day, &c. for the rent aforesaid.

In the room forwards _____
In the room backwards, &c. _____

In the kitchen, &c.

Valued in all at twelve pounds and ten shillings.

Witness our hands this day of, &c. in the Year of our Lord 1739.

W. L. } Sworn appraisers.
T. M. }
F. G. Constable.

Mr. C. D.

This is to inform you, that I have this Day of, &c. seized upon part of your goods in your house in, &c. as a distress, for ten pounds, being half a year's rent of the said house due to me at Lady-day last, and have taken an inventory thereof, and locked the same up in the room, &c. and if you do not pay the rent due, or replevy the goods mentioned in the inventory, I shall in five days make sale thereof, according to the direction of the act of parliament; of which take notice from yours, &c.

Notice of distress taken.

Distresses for rent, are to be reasonable; and if of cattle they must be impounded in the common pound, or kept in an open place, that the tenant may come to feed them; and they may not be used, except for the owner's benefit, by milking, &c. If distress and sale be made where no rent is due, the owner of goods shall recover double value and costs. And tender of rent upon the Land, before the distress, makes it wrongful. 51 H. 3. 2 W. & M. &c.

Distresses to be reasonable; where no rent due, Penalty.

If Tenants fraudulently convey away goods from off the premises, the landlord, &c. may in five days seize such goods whereforever

Goods conveyed away.

*Rent paid on
executions.*

ever found, as a distress for the rent in arrear; except the goods be sold for a valuable consideration before seizure: and in case of any execution against the tenant, paying a Year's rent to the landlord, the goods on the premises may be removed and sold. *Stat. 8 Ann. c. 17.*

*Distress of
the premises,
where goods
removed.*

Where goods are carried away in a fraudulent manner to prevent a distress for rent, the landlord in thirty days after may distrain them wherever they are, as if upon the premises; and the tenant and others assisting in such fraud, shall forfeit double the value of the goods, and being under 50*l.* two justices of peace may order the offender to pay it, or commit him to the house of correction for six months.

*Frauds pun-
ishable.*

*When a
house may be
broke open to
seize.*

*Corn grow-
ing, &c.*

*Irregulari-
ties.*

*Distress in
two counties.*

Landlords may seize goods concealed in any house, &c. and break open the same, on oath first made before a justice of reasonable suspicion that the goods are therein: And any cattle on commons, or corn, grass, or other product, growing on the lands, may be taken as a distress, and when cured be disposed of, &c. *Stat. 11 Geo. 2. c. 19.*

Distresses shall not be unlawful, or distrainers trespassers for any irregularity; but parties grieved to have satisfaction for special damage. *Stat. ibid.*

The lands demised lay in two counties, part in the hundred of *A.* in *Wiltshire*, and part in the hundred of *P.* in *Hampshire*; the landlord distrained in both hundreds, and the constable of *A.* in the presence of the constable of the hundred of *B.* sold the goods in the hundred of *B.* It was resolved by the court, that tho' the act requires the oath to be administered by the constable of the hundred where the goods

goods are, and here the constable administered the oath in the hundred of *B.* where he had no authority, yet it was legal, because the landlord could not sever the distress, it being intire, and the hundreds contiguous, so that the driving was lawful, and a continuance of the first act. *Salk. 247.*

Dogs. See Title Game.

Constables are to levy the sum of 5 *s.* on **Drunken-** persons convicted of drunkenness, for the use **ness.** of the poor: And if the party is not able to **Penalties.** pay it, he must be set in the stocks six hours, *Stat. 4 Jac. 1. c. 5. 21 Jac. 1. c. 7.*

Neglecting to levy the said penalty upon **Constables** warrant from one justice, to forfeit 10 *s.* **neglecting to** *4 Jac. 1. c. 5. levy.*

Constables, tithingmen, church-wardens, *Stat. 21 Jac. 1.* are to present and suppress drunkenness, by the Stat. 21 *Jac. 1.*

The penalties inflicted upon dyers, for dy- **Dyers.** ing cloth deceitfully, being in proportion to **Deceitfully** the length and goodness of the cloths, are **dying Cloth,** to be levied by warrant of two or more ju- **&c.** stices, by constables, *Stat. 13 Geo. 1. c. 24.* **Penalties and** *Days.* **forfeitures in**

Forfeitures within ten miles of **London,** **London.** shall go one moiety to the dyers company, and the other to the informer; and beyond that the whole to the informer. *Ibid.*

As to this head relating to beer, ale, and **Excise:** other liquors, constables, upon warrants to **Alehouse-** them directed, are to summon all alehouse- **keepers to ap-** keepers, *Stat. 13 Geo. 1. c. 24.* **pear before** **commissioners.** *Stat. 13 Geo. 1. c. 24.* **commissioners.**

Officers

**Constables
to assist**

Gaugers, &c.

Officers of excise are to take with them a constable, when they enter into a brew-house, &c. by night to gauge fats or vessels. *Stat. 12 Car. 2. c. 23.*

**Refusing a
gauger en-
trance.**

Brewers refusing a gauger to enter in the night, with a constable, forfeit 20*l.* and makers or retailers of cyder, vinegar, &c. 15*l.*

Secret pipes.

Excisemen suspecting a secret conveyance of worts, may, upon request, and in presence of a constable, break open a door in the day-time to make a discovery. *Stat. 7 & 8 W. & M. c. 30.*

**Opposing
officers.**

Persons opposing them forfeit 20*l.* Brewers keeping private houses, or altering any tuns, vessels, &c. without giving notice, forfeit 50*l.* one third to the king, another to the informer, and the other third to the poor. 15 *Car. 2. 1 W. & M. c. 24. 8 & 9 W. 3.*

**General
power of con-
stables.**

Constables by warrant from justices are to levy the penalty on offenders against any law of excise, by distress, &c. And if there be no distress, to carry them to gaol, there to remain until satisfaction be made. *Stat. 12 Car. 2. c. 23. 1 W. & M.*

**Excise on
coffee, &c.
by late Act.**

The custom duties on coffee, &c. are taken off, and a duty of excise granted in their stead; and entry is to be made of all warehouses, &c. under certain penalties: Dealers in coffee, and coffee-house keepers, &c. shall keep an account of goods sold every day, and deliver their books to officers on oath. *Stat. 11 Geo. 1. 30.*

Escapes.

Voluntary

and negligent,

If a constable permits a felon to escape before he is arrested, it is a misdemeanor, for which he may be indicted, and fined; and if

hem
ew- If the felon be actually taken and in custody,
Hels. and then he voluntarily suffers him to escape,
or to kill or destroy himself, it is felony in the *Crime in the*
the constable: But if the escape is by negligence, *constable.*
and involuntary, or the felon destroys himself
&c. shewares to the constable, it is only fineable.

Dalt. 379. Cro. Eliz. 752. Hett. 73.

ance A constable may pursue an offender making
pre- an escape into another county, and bring him
r in- back to the justice of peace. *Crompt. 148,*
stat. 73, &c. He may put a felon in the stocks,
and lock him in; or put irons upon him, or *Constable may*
ew- join him, to prevent an escape, when he is *put irons on*
any about to carry him before a justice of peace, *a felon.*
ice, or to gaol. *Dalt. 342.*

ther He may discharge any person arrested on *When he may*
the suspicion of felony only, where no felony is *discharge, and*
& committed; but if a felony be actually com- *be no escape.*
mitted, he cannot justify the discharging him,
e though he know that the party is innocent;
any but it must be done by due course of law,
ere otherwise it will be an escape. *Crompt. 40.*
ere *Cro. Eliz. 202.*

at. Aiding any prisoner to attempt to make his *Affisting per-*
escape out of prison, though no escape be *sons to escape,*
ade, if the prisoner be convicted of or com- *in what cases*
mitted for treason or any felony, except petit *felony by sta-*
all rcery, is felony, and the offender shall be *tute.*
es: transported for seven years. If the prisoner
ers, be convicted of, or committed for any petit
old rcery or other crime, or in gaol for debt,
ers &c. amounting to 100 *l.* it is a misdemea-
ment, and punishable by fine and imprison-
ment.

ape Conveying into any gaol any disguise or
for arms, proper to facilitate the escape of pri-
nd soners, and delivering the same to or for the
if use of a prisoner, without the gaoler's consent,
though

Constables.

though no escape be made, shall be deemed to be done with an intent to aid such prisoner to attempt to escape, and be liable to the like respective punishments.

Aiding any prisoner to escape from the custody of any constable, &c. or other person lawfully having charge of such prisoner, in order to carry him to gaol, by virtue of a warrant of commitment for treason or felony, except petit larceny, or from the custody of any person to whom he shall have been delivered, in order to be transported, is felony, and punishable by transportation for seven years. *Stat. 16 Geo. 2. c. 31.*

See *Gaol* and *Gaolers*.

Felons.

To apprehend felons.

Felony, what. Seize suspicious persons, call assistance, break open doors.

A constable is bound *ex officio* to endeavour to apprehend felons; and any offence that is in degree next to treason, is felony; as murder, robbery, theft, sodomy, rape, &c. he may raise men to assist him, apprehend persons on suspicion, and carry them before a justice to be examined; and upon complaint, or common fame, he may search suspicious houses, both for the felon and goods stolen. And officers may break open a house to take a felon, or any one suspected thereof. *Dalt. 322.* But it is safer to have a justice's warrant.

Convey to gaol.

If felons or murderers be in a town or village, and the constable, headborough, &c. have notice of it, they are to command assistance, and apprehend them; and afterwards it is the constable's business to see them conveyed to gaol. *1 R. 3.*

If a felon fly, the constable is to seize and make an inventory of his goods, and send hue and cry after him; that is, he may raise the town, and give notice to the next constable, *Pursuit of felons, hue and cry, inventory of goods, &c.*

&c. And if upon such flight, he is apprehended in another county, he must be carry'd before a justice of that county where taken, and committed to gaol there, and not in the county where the fact was done. *Stat. 13 Ed. 3. c. 3. 27 Eliz. 13.*

Constable neglecting, is fineable by the justices. *Neglects, penalty.*

Persons convicted of felony, larceny, *&c.* within the benefit of clergy, to be sent to the plantations for seven years, instead of being whipt, or burnt in the hand; and for crimes excluded clergy may be transported for fourteen years. Returning without licence, *&c.* they are to suffer death. *Stat. 4 Geo. 1. c. 11. &c.* *Transportation of felons.*

And whoever discovers, apprehends, and prosecutes any offender returning from transportation, shall have 20 l. reward. *Stat. 16 Geo. 2. c. 15.* *Discovering felons transported, returning.*

Any person may arrest one that has committed felony. *All persons may arrest.*

If any person builds a house in London, he must erect party-walls of brick or stone between house and house, to prevent fire, of the thickness of two bricks in length on the ground story, *&c.* or shall forfeit 50 l. leviable by warrant of justices, by constables, *&c.* *Fire. What to be done to prevent fires.* *Stat. 6 Ann. c. 30.*

And on the breaking out of any fire, all constables and beadles shall repair to the place with their staves, and assist in putting out the same, *Constables, &c. to assist.*

same, and causing the people to work, &c.
Ibid.

Fire-Cocks. See *Church-Wardens.*

Fish.

*Constables to
levy penal-
ties.*

Constables, &c. are to levy the penalty of 10 s. for the poor, and treble damages, for fishing in a river without the owner's consent. *Stat. 22 & 23 Car. 2.*

To levy the penalty of 10 s. upon persons fishing in nets of less meshes than three inches and a half from knot to knot, on the sea-coast, or in any haven or creek, or within five miles thereof, or using engines to destroy the breed of the fish, by warrant from a justice of peace. 3 *Jac. 1. c. 12.*

*Search for
nets.*

They are to search likewise, by virtue of a justice's warrant, in *Shropshire, Worcester-shire, and Gloucestershire*, for unlawful nets used to take fish in the *Severn*, and to seize such nets, and carry them to the quarter-sessions, to be destroyed. *Stat. 30 Car. 2. cap. 9.*

*Fishmongers
in London.*

Fishmongers of *London* ingrossing *Billingsgate* market, or buying any quantity of fish there, but what shall be for their own sale and use, forfeit 20 l. one moiety to the poor, the other to the prosecutor. *Stat. 10 & 11 W. 3.*

*Fish not to be
taken out of
season, &c.*

No Salmon shall be taken between the 1st of *August* and the 12th of *November*, in rivers, in the counties of *Southampton* and *Wiltshire*; nor Salmon or trout under size, &c. under a penalty not less than 20 s. nor above 5 l. leviable by distress by constables, &c. 4 & 5 *Ann. c. 21.*

*Size of fish
by new act
1 Geo. 1.*

Salmon bought by fishmongers are to be six pounds weight, under the penalty of 5 l. and fish sold to be of certain lengths, as bred and turbot

turbet sixteen inches, brill and pearl fourteen inches, codlin twelve inches, flounder seven inches, whiting six inches, &c. under the penalty of 20 s. Stat. 1 Geo. 1. c. 18.

Forcible entry is a violent entering into, and **Forcible** detaining the possession of houses, lands, &c. **Entry.** and at common law, where a man had title to *How con-* lands, he might not only enter, but detain by *strued at* force: But the Stat. 5 R. 2. c. 7. prohibits *common law.* the force, though a person have title.

This statute enacts, that justices of peace *To assist in* shall inquire into the force; and if constables *removing the* refuse to assist the justices in removing the *force.* force, or carrying offenders to gaol, they may be committed and fined. 15 R. 2.

Justices of peace may cause the tenements *Tenements* to be seized; and have power to award re- *seized.*stitution, where lands are detained by force. Stat. 8 H. 6. c. 9. 21 Jac. 1. c. 15.

Constables, upon warrants to them directed **Foreign** by a justice of peace, are to search for foreign **Goods im-** bonelace, embroidery, needlework, fringe, **ported.** &c. in shops, open warehouses, and dwelling- *To search for* houses, and to seize the same. Stat. 13 & *embroidery,* 14 Car. 2. c. 2. *&c.*

Persons importing, selling, or offering to **Forfeitures.** sale such foreign manufactures, forfeit 100 l. for importing, and 50 l. for selling them, and the goods; one moiety to the king, the other to the prosecutor.

Constables were likewise, during the late **Trade with** War with *France,* to be assisting in the execu- **France in the** tion of the act prohibiting the importation of **late war.** *French wines,* and other foreign trade with that kingdom.

Forestallers

**Forestall-
ers and
Ingros-
sers, &c.**

*What they
are by sta-
tute.*

Forestallers of markets, and ingrossers and regrators are punishable by justices of peace in their quarter-sessions, on the presentment of constables, &c.

And a forestaller by statute is declared to be one who buys victuals, or merchandize, &c. by the way, before it is brought to a fair or market, to the intent to sell the same at a higher price: A regrator is one that buys any grain, butter, cheese, &c. in a fair or market, and sells the same in the same market, or within four miles: And an ingrosser is one who buys corn growing, &c. or butter or cheese, with an intent to sell again. *Stat. 5 & 6 Ed. 6. c. 14.*

**Forfeitures
on present-
ment of con-
stables, &c.**

These offenders shall forfeit for the first offence, the value of the goods, and suffer two months imprisonment; for the second offence double the penalty, &c. and for the third offence shall lose all their goods, and be set on the pillory, &c. *Ibid.*

Exception.

But maltsters buying barley, badgers of corn, butchers and poulterers, &c. are excepted out of the act.

Game.

*To carry big-
gers, &c. be-
fore a justice.
Penalty of
having game
in custody.*

Constables shall carry higlers, chapmen, inn-keepers, victuallers, &c. before a justice, for having in their custody hare, pheasant, partridge, heath-game, or other game; or persons as shall buy or sell any such; who shall forfeit 5*l.* for every hare, &c. one half to the poor, and the other to the informer. *Stat. 5 Ann. c. 14.*

**Constables to
search for
game.**

Constables, by warrant from a justice, may enter and search the houses of persons suspected, not qualified to kill game; and if they find

find any game there, shall carry the offender before the justice; and if they meet with any dogs, nets, &c. may take away and destroy them. 22 & 23 Car. 2. c. 25. 4 & 5 W. & M. c. 23.

Constables may carry any person not qualified before a justice, for keeping of grey-hounds, setting dogs, &c. and on conviction, they shall forfeit 5 *l.* Stat. 5 Ann. and 3 Geo. 1. cap. 11.

Persons qualified to keep guns, &c. and kill game, are such as have a free warren; Lords of manors, or who have 100 *l.* per Annum of inheritance, either in their own right, or in the right of their wives, or for life; or lease for 99 years of 150 *l.* per Annum; a son and heir of an Esquire, or one of higher dignity. Stat. 22 & 23 Car. 2. c. 25. And persons thus qualified may take guns, &c. from those that are not. By Stat. 33 H. 8. c. 6. Persons keeping guns, not being qualified, forfeit 10 *l.*

The 22 & 23 Car. 2. impowers Lords of manors to appoint game-keepers. And by 9 Ann. and 3 Geo. 1. game-keepers are to be entered with the clerk of the peace, to be qualified, or be servants of lords of manors, under the like penalties, as for unlawful killing of game. See Stat. 8 Geo. 1. c. 19.

See title Soldiers.

To all people to whom these presents shall come, I A. B. of, &c. Esq; lord of the manor from a lord of, &c. in the county of, &c. have nominated, authorized and appointed, and by these presents do nominate, authorize and appoint C. D. of, &c. to be my game-keeper, of and within my manor

Constables.

manor of, &c. aforesaid, with full power and authority, according to the direction of the statutes in that case made and provided, to kill game for my use, and to take and seize all such guns, grey-hounds, setting-dogs, and other dogs, ferrets, trammels, bays, or other nets, snares or engines, for the taking, killing or destroying of hares, pheasants, partridges, or other game as within the said manor of, &c. and the precincts thereof, shall be kept or used by any person or persons not legally qualified to do the same: And further, to do all and every thing and things which belong to the office of a game-keeper, according to the direction of the said acts of parliament; for which this shall be a sufficient warrant. Given, &c.

Entered the day, &c.

Per I. W. Cler^y Pac^y.

Gaming.

To search gaming-houses.

Punishments of gamesters.

What unlawful games.

Mayors, constables, and other head officers are to make search once a month where unlawful games shall be kept; and may arrest and imprison the masters of the houses, and the gamesters, till they give security not to do the like for the future: The master of any such gaming house forfeits 40 s. a day. Stat. 33 H. 8. c. 9. There is a penalty likewise of 6 s. 8 d. for using unlawful games; and on default of payment, the offender to be set in the stocks three hours. Constables neglecting their duties, forfeit 40 s. for every default.

Tables, tennis, bowls, cards, dice, &c. are declared unlawful games, by the said statute but this extends only to artificers, apprentices, journeymen, servants, &c.

Perfor

Persons having no visible estates, not making it appear that the principal part of their maintenance is got by other means than gaming, are to be bound to the good behaviour, being carried before a justice of peace by a constable, &c. *Persons having no visible estate.*

If a person lose by gaming 10*l.* at one time, he may recover the same back from the winner; and if the loser do not sue for it, any other person may, and recover the money, and treble value: And where persons by fraud in gaming win above that sum, they shall forfeit five times the value, and suffer such corporal punishment, as in cases of wilful perjury. *Money lost, how to be recovered.* *Where there is fraud.* Stat. 9 Ann. c. 14.

Persons who have used unlawful games, shall enter into a recognizance, that they will not play at any time to come, &c. Stat. 2 Geo. 2. c. 28. *Security given not to play.*

All private lotteries and sales of houses, plate, &c. are suppressed and made liable to 200*l.* penalty; and the games of ace of hearts, pharaoh, basset, and hazard, declared to be lotteries by cards and dice: And adventurers in any of the said games, by playing, staking, &c. to forfeit 50*l.* Stat. 12 Geo. 2. c. 28. *Late act to prevent excessive and deceitful gaming.*

The forfeitures to be levied by warrant of a justice of peace, by distress of goods, by constables. *Penalties levied.*

Any person who shall keep any house, &c. for playing, or shall suffer any person within such house, &c. to play at the game of the ace of hearts, pharaoh, basset, hazard, the game of passage, or any other game or games, invented or to be invented, with one or more die or dice, or with any

D

other

other instrument, engine or device, in the nature of dice, having one or more figure or numbers thereon (backgammon and the other games now played with the backgammon tables only excepted) or the game of roulette, otherwise roly poly, or at any other game with cards or dice already prohibited, being convicted before any one justice of peace, shall forfeit 200 *l.* to be levied by distress or sale of his goods, which, after deducting reasonable charges, shall be applied one third to the informer, the other two thirds to the poor. *Stat. 12 Geo. 2. c. 28. Stat. 13 Geo. 2. c. 19. Stat. 18 Geo. 2. c. 34.*

On such as play.

Persons playing at the said games, forfeit 50 *l.* to be levied as above, if not able to pay the forfeiture, to be imprisoned, not exceeding six months.

On such as refuse to give evidence.

If any person, who shall be summoned to give evidence, shall refuse to appear or to give evidence, or shall give false evidence, he shall forfeit 50 *l.* to be levied as above, or suffer imprisonment, not exceeding six months. *Stat. 18 Geo. 2. c. 34.*

Gaol and Gaolers.

Gaoler to receive a prisoner;

When a constable carries a felon, or one suspected of felony to gaol, the gaoler is obliged to receive him; but if he refuses to do it, then the constable may either secure the prisoner in his own house, or carry him back to the town where apprehended; and the town shall be chargeable for the keeping of him till the next gaol delivery, where the gaoler shall be punished. *10 Hen. 4. Dab. 310.*

Or be punished.

Constable

Constables by warrant from a justice of Offender's peace, may sell an offender's goods to defray *goods to be* the charges of carrying him to gaol, being *sold, to bear* first appraised by some of the inhabitants of *the charges* the place: But if the offender hath no goods, *of conveying* then the town where he was apprehended *him to gaol.* must be at the expence; and the constable and church-wardens, and two or more of the inhabitants may impose a tax, take a distress for it, after allowed by a justice, and sell the distress when appraised by four inhabitants. *Stat. 3 Jac. 1. c. 10.*

If a prisoner escape from gaol by the negli- *Escapes per-* gence of his keeper, and against his consent, *mitted by* it is felony in the prisoner for the breach of *gaolers.* prison; and the gaoler is fineable. *Dalt. 379.* *Staundf. 32, 34.* If voluntary in the gaoler, it is felony in him.

Constables are to levy money for reparation *Repairing of* of gaols, by warrant from justices. *Stat. 11 gaols.* *5 & 12 W. 3. c. 19.*

In London and Westminster, &c. constables *Gun-pow-* by virtue of a warrant from two justices of *der.* peace, may search for gun-powder in any *Search by* storehouse, &c. in the day-time, where per- *constables* sons keep a greater quantity than is allowed *where more* by law; and justices of peace on demand by *kept than* any parish officer, or two householders, assign- *allowed.* ing cause, shall issue warrants for search and amoval, &c.

Persons obstructing the search or amoval, *Hindering* forfeit 5 *l.* *search.*

The quantity of gun-powder to be kept, *Quantity of* is not to exceed 200 *l.* weight, on pain of *powder kept.* forfeiting the same: And gun-powder must be carried in covered carriages, &c. *Stat. 5 & 11 Geo. 1. c. 23.*

*Not put on
ship-board
above Black-
wall, &c.*

No gun-powder shall be put on board ships above *Blackwall* in the river of *Thames*; nor guns kept loaded, or fired before rising or after setting of the sun, under the penalty of 5*l.* to be levied by constables, by justices warrant, &c. Stat. 5 Geo. 2. c. 20.

Ships of war are excepted out of the act.

Guns. Vide Title Game.

Hawkers.

Constables refusing to assist in putting the laws in execution against hawkers, &c. forfeit 40*s.* one moiety to the poor.

*Penalties of
hawkers
without li-
cence.*

Hawkers, pedlars &c. travelling without a licence, shall forfeit 12*l.* and refusing to shew their licences, forfeit 5*l.* Stat. 8 & 9 W. 3. Any person may seize a hawker till he produce a licence.

*Duty paid to
the king.*

*Persons ex-
cepted, and not
hawkers.*

On granting licences, hawkers, &c. on foot, pay 4*l.* and if with horse, ass, or mule, 8*l.* duty to the king. But makers of goods, selling those of their own making, sellers of almanacks, acts of parliament, &c. and of fruit, victuals, &c. are excepted out of the acts against hawkers. Stat. 8 & 9 W. 3. c. 25. 3 & 4 Ann. c. 4. 16 Geo. 2. c. 26.

And makers and sellers of *English* bone-lace going from house to house, &c. are not to be taken as hawkers. 4 Geo. 1.

*Not to sell
tea, &c.*

Hawkers and pedlars, offering any tea, &c. to sale, though they have permits, the same may be seized as forfeited. Stat. 9 Geo. 2. c. 35.

**Hay-mar-
ket.**

For carts of hay which stand to be sold in the hay-market, so much *per* load is to be paid towards the paving and amending the street;

street; and they shall not stand laden after three a clock in the afternoon, &c. under the penalty of 5s. And the persons selling trusses *Hay sold to be* of hay wanting due weight, shall forfeit for *full weight,* every truss 2s. 6d. to be levied by constables, by warrant of a justice. *Stat. 2 W. & ties.* M. c. 8.

Hedge-breakers, robbers of orchards, persons cutting corn growing, &c. committed to a constable by a justice of peace, for not making the party satisfaction for damages, are to be whipt by the constable for the first offence; and if the constable neglect his duty, the justice may commit him without bail till the offender is whipped. Procurers and receivers of stolen wood, &c. knowing the same to be stole, are liable to the same punishment. *Stat. 43 Eliz. c. 7.*

Constables have power to apprehend persons suspected of hedge-breaking, having in their possession any underwood, poles, young trees, gates, stiles, posts, rails, &c. And by warrant from a justice of peace, to enter the houses of suspected persons; and if they find any, then to take the offenders, and those in whose houses, &c. the wood is found, and carry them before a justice. *Stat. 15 Car. 2. c. 2.*

Not giving a good account how they came by the same, they are to make such recompence to the party grieved, as the justice shall appoint, and pay a sum not exceeding 10s. for the use of the poor; and in default, to be sent to the house of correction for any time not exceeding a month, or be whipped by the constable. *Stat. Ibid.* Buyers of stolen

wood, to pay treble the value to the party from whom taken.

Cutting timber-trees, &c. by statute
1 Geo. 1.

By a late statute, persons maliciously cutting or spoiling timber-trees, fruit trees, or other trees, are to be sent to the house of correction for three months, there to be kept at hard labour, and publickly whipped once in every month. 1 Geo. 1. c. 48. Burning timber or underwood, is made felony by this statute.

Satisfaction to be made.

Where trees, woods, &c. are destroyed, or hedges, gates, &c. broke open; the owners shall have satisfaction from the inhabitants of the place, &c. if the offender be not convicted within six months. Stat. 6 Geo. 1. c. 1.

Highways. Constables power by former statutes.

By ancient statutes, constables were yearly on Tuesday or Wednesday in Easter week, to call together the inhabitants of parishes, to chuse two surveyors of the highways for the next year, or they were liable to be fined in quarter-sessions. 2 & 3 Ph. & M. c. 8.

Altered lists of persons to serve as surveyors, to be returned to justices.

But now by the statute 3 & 4 W. & M. constables, church-wardens, &c. and inhabitants are enjoined to meet the day after Christmas-day, and the greater part of them so met, shall agree on persons qualified to serve the office of surveyor; a list of which the constable must return to the justices of peace at a special sessions, on the 3d of January following, in order to their appointment of surveyors; under the penalty of 20 s. The like penalty for the constables not serving such surveyors with the justices warrant within six days after appointment.

Constables and church-wardens have power *High constables, &c. ac-* to call a bailiff, or high constable to account *bles, &c. ac-* for fines received for defaults in reparation of *countable for* ways, on presentments, &c. And if he re- *fines.* fuses to account, they may summon him before two justices, who may commit him till he has satisfied all the arrears, except 8*d.* in the pound for his own pains in collecting, and 1*s.* in the pound for the fees of the clerk of the peace. 2 & 3 *Ph. & M.*

By statute 22 *Car. 2. c. 12.* All constables, as well as surveyors, are to put the act *Constables to* in execution relating to the repairing of high- *put acts in* ways, on pain of forfeiting a sum not exceeding 40*s.* at the discretion of a justice of peace. *execution.* And are to levy the penalties relating to scavengers, and defaults in cleaning the streets of *London, &c.*

See *Surveyors of highways, &c.* hereafter.

The constable, on a justice's warrant, shall *Hops.* levy the penalty of 5*s.* a pound, for privately *Constables to* conveying away hops, to avoid payment of *levy penalties* the duty thereon; and the forfeiture for not *for frauds in* entering the hop-gardens. *Stat. 9 Ann. c. 12. the hop-duty.* 1 *Geo. 1. c. 2.*

Also the penalty for mixing ingredients *And for adul-* with hops, to alter their colour or scent, *terating hops,* being 5*l.* for every hundred weight. 7 *Geo. 2. c. 19.*

Constables are to assist at *Michaelmas, or* *Horses, and* within 15 days after, in the driving of com- *Horse-races,* mons, forests, &c. of horses, and cattle, on *Driving of* pain of 40*s.* *Stat. 32 H. 8. c. 13.* *commons.*

*Stone horses
in commons
underfiz'd.*

They are likewise to assist in the seizing stoned horses, put into commons where mares are usually kept, not being of the age of two years, and fifteen hands high, (except in fen grounds, where thirteen hands high is allowed) and in the measuring of them at the next pound, to which they are to be brought for that purpose, on pain of forfeiting 40 s.

Fens excepted. Fens in the counties of *Cambridge, Huntingdon, Nottingham, Lincoln, Norfolk and Suffolk*, are excepted.

Horse-races *Horse-races* are prohibited, unless at *New-restrain'd ex-* market heath, or *Black Hambleton* in *York-* *cept at New-* *shire*, or the plate be of 50 l. value, under market, &c. the penalty of 200 l. And no person shall by new act run any horse at a race, except it be his own property, nor enter more than one horse, &c. for the same plate, on pain of forfeiting all other horses; also every horse-race is to be begun and ended the same day. *Stat. 13 Geo. 2. c. 19. Stat. 18 Geo. 2. c. 34.*

House of *There shall be in every county of Eng-*
Correction. *land a house of correction, built at the*
A house of *charge of the county, with conveniencies for*
correction to *the setting of people to work. Stat. 7 Jac.*
be in every *1. c. 4.*
county.

What idle *And constables, by a justice of peace's war-*
and disorderly *rant, are to convey to the house of correction*
persons to be *idle and disorderly persons, parents of ba-*
committed *stard children, beggars, servants running a-*
there. *way, trespassers, vagabonds, &c. Also per-*
sons who live extravagantly, and have no
visible estate to support themselves, &c.
And

And there they shall be set to work and labour, and be corrected by whipping. *Stat. may be*
 39 *Eliz. c. 4.* 13 *Geo. 2. c. 24.* *whipped.*

But persons ought to be convicted of vagrancy, &c. before they may be ordered to be whipped. *On a conviction.*

The justices of the peace of any liberty, city, or town corporate, whose inhabitants are contributory to the support and maintenance of the house or houses of correction of the county, riding or division, in which such liberty, &c. is situate, may commit to the house of correction of such county, &c. any person liable by law to be committed to the house of correction, who shall be apprehended within such liberty, &c. to be there received, &c. as if committed by a justice of peace of the same county, &c. *Stat. 15 Geo. 2. c. 24.*

Hue and cry, as I have already defined in the head *Felons*, is a raising of a town or country for the pursuing and apprehending of an offender, where a felon is committed, and he flies for the same; and is most commonly made for robbery on the highway. **Hue and Cry, what.**

The manner of making hue and cry is thus: The constable, on the felon's being described, and information given which way he is gone, is to call upon the parishioners to assist him in the pursuit in his precinct; and if the offender be not there, he is to give notice to the next constable, (who is to do the like as the first) and he to the next, and so to be made from town to town, and county to county, by horsemen and footmen to the sea side; unless the offender in the pursuit is sooner apprehended: and in

the mean time, the first constable is to make an inventory of his goods in the presence of his neighbours. *Stat. 13 Ed. 1. c. 3. 27 El. c. 13.*

*Search in
the pursuit.*

Constables and officers of every town to which hue and cry shall come, are to make diligent search in all suspected houses and places within their limits; and not only officers, but all others who shall pursue the hue and cry, may arrest all such persons as in their search and pursuit they shall find suspicious, and carry them before some justice of peace of the county where taken, to be examined where they were at the Time of the felony committed. *13 Ed. 1. c. 1.*

*Neglect of
duty in con-
stables.*

Constables neglecting their duty, may be indicted and fined.

*Inhabi-
tants, &c.
Punishment.*

Inhabitants of any hundred where hue and cry is made, neglecting to pursue it, shall answer one moiety of the damages recoverable against the hundred, where the robbery is committed. *Stat. 27 Eliz. c. 13.*

*Further pe-
nalty for
neglecting
hue and cry.*

When offenders are not taken upon the hue and cry, constables shall levy the tax to answer an execution on recovery against the hundred, and pay it to the sheriff, &c. And if any constable neglect to make hue and cry, he shall forfeit 5*l.* by *Stat. 8 Geo. 2. c. 16.*

See more, Title *Felons.*

**Inns,
and Inn-
keepers.**
*For what
ordained.
To be licen-
sed and regu-
lated.*

Inns are allowed for the relief and Lodging of travellers: but they are to be licensed and regulated by justices of peace, &c. And if a person sets up an inn, in a place where there is no need of one; or keep it in a situation wholly unfit for it; or harbours thieves,

thieves, &c. he may be indicted and fined.

Dalt. 33, 34.

Inn-keepers are to sell all kinds of victuals *Victuals to* for man and beast, at reasonable prices, having *be sold at* respect to the price sold in the markets ad- *reasonable* joining, without taking any thing for horse- *prices by inn-* litter; or they shall be fined and imprisoned; *keepers.* and for a third offence may be put in the pillory; by *Stat.* 21 *Jac.* 1. c. 21.

And if a common inn-keeper or alehouse- *Refusing to* keeper shall refuse to lodge a traveller, or to *lodge persons,* provide him victuals, &c. who offers to pay *provide vic-* ready money for the same; the constable, on *tuals, &c.* complaint, is to cause such inn-keeper, &c. to be indicted at the next sessions, where the justices may punish him by fine and imprisonment. 10 *H.* 7. c. 10.

If the traveller does not approve this me- *Action a-* thod of proceeding, he may prosecute the *gainst inn-* inn-keeper by action at law, in any of the *keepers.* courts at *Westminster*, and recover damages. *Dalt.* f. 30.

And it is said, the constable of the town *Compell'd by* may compel an inn-keeper to receive and en- *constables.* tertain such a traveller as his guest. 1 *Hawk.* 225.

Where disputes happen in an inn, or ale- *Reckoning* house, &c. about any reckoning, and per- *disputes not* sons endeavour to escape, without paying; if *cognisable* there be no swords drawn, beating, or breach *by the con-* of the peace, the constable may not lawfully *stabiles.* arrest and carry them before a justice. *Mod.* *Rep.*

For this is only a debt, for which action *But action* lies; and if constables act in such cases, with- *to be* out a warrant, they may bring themselves *brought.* into trouble.

At

Juries.
*Lists of
 persons
 qualified to
 be made.*

At Michaelmas Sessions yearly, constables, &c. are to give in to the justices of peace a list of the names and places of habitation (within their respective limits) of all persons qualified to serve on juries, between the age of 21 and 70; and sheriffs shall impanel no others, &c. *Stat. 7 & 8 W. 3. c. 32.*

*Qualifica-
 tion of ju-
 rors.*

The qualifications are 80 *l.* *per Ann.* Freehold, for a grand jurymen; and 10 *l.* *per Ann.* freehold or copyhold, for a petty jurymen; except it be in corporations, where a freeman worth 40 *l.* in goods, may serve on the petty jury, by *Stat. 23 H. 8.*

*Persons ex-
 empted from
 serving.*

But aliens, apothecaries, clergymen, infants, persons attainted of any crime, &c. may not serve on juries.

*Punishment
 of constables.*

Constables neglecting to return lists of names of persons fit to serve on juries, shall forfeit 5 *l.* And by the statute 3 & 4 *Ann. c. 18.* high constables are to issue their precepts to the petty constables, to prepare such lists, by virtue of a warrant from justices in the sessions, under the penalty of 10 *l.*

*New act
 3 Geo. 2.
 Duty of con-
 stables.*

Lists of jurors qualified are to be made from the Rates of each parish, and yearly fixed on the doors of churches, &c. twenty days before the feast of St. Michael, that publick notice may be given thereof; and returning officers, as constables, &c. wilfully omitting persons qualified, or inserting wrong persons, shall forfeit 20 *s.* by *Stat. 3 Geo. 2. c. 25.*

*In making
 lists of ju-
 rors, attested
 on oath.*

Constables must subscribe their lists, and attest the truth of them on oath before one or more justices of peace; and then deliver them to the high constables of the hundreds, who are to deliver them attested to the justices

stices in sessions: And duplicates of the lists when adjusted by the justices, are to be delivered by the clerks of the peace to the sheriffs of counties.

Sheriffs are to enter the names of the persons in a book alphabetically, with their additions, and places of abode, &c. and returning any other persons to serve upon juries, shall be fined by the judges of assize not exceeding 10*l.* nor under 40*s.* The like penalty for taking money to excuse persons from serving: And jurors not appearing, unless reasonable cause of absence be proved, to be fined not above 5*l.* or under 40*s.* *Stat. Ibid.*

Names to be entered in freeholders book, &c.

By this act persons having estates held by lease for 500 years, or 99 years, or any other term determinable on lives, &c. of the yearly value of 20*l.* are qualified to serve on juries: And none shall be returned as jurymen in London, but householders having lands or personal estate to the value of 100*l.*

The juries for trial of causes are to be chosen by ballot, by drawing papers with the names of the jurors summoned, rolled up in a box, &c. And in trials on indictments, &c. and all actions, the courts at Westminster may order a special jury, by this new statute.

Jurors chosen by ballotting.

A constable may in hay or corn harvest time, set artificers and ordinary tradesmen on work by the day, (being required by persons who want labourers) and put those in the stocks for two days and a night, who refuse; and the constable neglecting his duty herein forfeits 40*s.* *Stat. 5 Eliz. c. 4.*

Labourers may set labourers tradesmen at work in time of

From Harvest.

*Hours of
working by
labourers.*

From the middle of *March* to the middle of *September*, labourers are to work from five in the morning until seven a clock at night, being allowed two hours for breakfast and dinner, &c. and half an hour for sleeping, the three hot months; and all the rest of the year from twilight to twilight, except an hour and an half for breakfast and dinner; on pain of forfeiting 1*d.* an hour. 5 *El.*

*Labourers
conspiring
together.*

Labourers conspiring together concerning their work or wages, shall forfeit for the first offence 10*l.* for the second 20*l.* and for the third offence 40*l.* or to be set on the pillory, &c. 2 & 3 *Ed.* 6.

*Leaving
work un-
finished.*

And taking work by the great, and leaving it unfinished, unless for non-payment of wages, &c. they shall suffer one month's imprisonment, and forfeit 5*l.* Stat. 5 *Eliz.* c. 4.

*Wandering
abroad.*

And labourers wandering abroad out of their parishes, and refusing to work for reasonable wages, &c. are declared vagrants. Stat. 12 *Ann.*

*Lamps
in London
all the
year.*

A convenient number of glass lamps shall be set up in such places of *London* as the lord mayor and aldermen, &c. shall think fit; which are to be kept lighted and burning, from sun-set to sun-rising throughout the year.

* *Penalties
for break-
ing down,
&c.*

Any person maliciously breaking down or extinguishing any lamp hung up to light the streets, or damage the posts, irons, &c. shall forfeit for the first offence 40*s.* for the second offence 50*s.* and 3*l.* for the third, but subject to mitigation, not under a moiety, on conviction before the lord mayor, or any two justices for the city of *London*.

The

The forfeitures to be levied by constables, *Leviable* by virtue of a warrant for that purpose on *by the con-* the goods of the offenders, &c. for want of *stables*. which, they shall be sent to the house of correction for any time not exceeding three months. *Stat. 17 Geo. 2. c. 29.*

In collecting the land tax, constables are *Land-* to be assisting; and where payment is refused *tax.* they are to take a distress, &c. and in the *Constables* day time, with the collectors, constables may *to assist in* justify breaking open houses to distrain goods, *levying the* by virtue of a warrant from the commission-*tax.* ers. *Stat. 1 W. & M.*

And if any person do not pay the assessment, ten days after demand, and doth convey away his goods, &c. two commissioners may commit him to gaol, until payment be made. *1 Geo. 1. & 12 Geo. 2.*

The farmers, or occupiers of the land, *How the* are to be charged to this tax, according to *tax laid;* a pound rate, and deduct it out of their rents *relief on* to the landlord; and if they are over-rated, *being over-* they shall be relieved on appeal to the com-*rated.* missioners, who may charge the same on others, as they see cause; and in case of a deficiency, shall make a re-assessment. *Ibid.*

Where lands or houses are unoccupied, *In what* and no distress can be found, whereby the *cases the* parish, &c. is charged, the collectors, con-*parish* stables, or tithingmen of the parish or place, *chargeable.* may at any time after take a distress upon *Future di-* the Lands, or in the houses, to reimburse *stres* on the parish: And if such distress be not re-*lands un-* deemed within four days, they may sell the *occupied.* same, and distribute the money amongst the parties who contributed to the tax proportionably, rendring the overplus to the owner.

Wood

*Wood,
tithes, &c.
cut and
sold.*

Wood may be cut at seasonable times in the year; and tithes, tolls, or annual profits not distrainable, may be seized and sold for satisfaction of the tax; where assessments are made upon such wood-lands, or tithes, &c.

*Commis-
sioners,
receivers,
collectors,
&c.*

Commissioners are appointed for counties, &c. to levy this tax, who nominate assessors, and they return collectors in every parish; the collectors detaining the money, shall be imprisoned, and their estates sold; and receivers general, not returning the same, are liable to 500*l.* penalty. *Stat. 1 G. 1. 12 G. 2.*

*And their
fees.*

The Receiver General is allowed a Fee of 2*d.* in the pound, the collectors 3*d.* per pound, and three half-pence to the commissioners clerks.

Leather. Vide Shoemakers.

*Linen, &c.
Stealing it
out of
grounds,
&c. felony.*

Stealing any linen, &c. laid in any bleaching ground, &c. is felony, and the offender shall suffer death; but the judge may order him to be transported for 14 years. *Stat. 18 Geo. 2. c. 27.*

Lunatics.

Persons furiously mad, may by warrant from two justices be locked up, and if necessary, chained, &c. and their estate, if any, be charged for their maintenance: if no estate, to be provided for by the parish. *Stat. 12 Ann. c. 23. Stat. 17 Geo. 2. c. 5.*

And it has been held that a constable may imprison a mischievous madman. *Owen 98. 22 Aff. 50.*

Madmen. See Lunatics.

*Malt.
To search
for bad
Malt, &c.*

Constables, &c. have power to inspect the making of malt. They are to search for bad malt; and if they find any deceitfully made,
or

or mingled bad with good, they may, with the advice of a justice, cause the same to be sold at reasonable rates, discretionary in the justice. *Stat. 2 & 3 Ed. 6. c. 10.*

Malt is adjudged ill made, when it is not *Malt* in steeping, making and drying three weeks; *when ill* if half a peck of dust is not skreened or fanned out of every quarter; or if it be made *made.* of mowburnt or spired barley.

There is a forfeiture inflicted by the statute of 2 s. for every quarter of malt consisting of bad and good mingled together, and put to sale, to be divided between the king and prosecutor; and 20 d. per quarter, where half a peck of dust is not taken by treading or rubbing, &c. Prosecution to be in a year. *Forfeitures.*

A duty of 6 d. per bushel is granted on *Malt duty.* Malt. All malt made must be entered with officers of excise once a month, on pain of 10 l. And maltsters using private cisterns, &c. are to forfeit 50 l. &c. *Stat. 8 & 9 W. 3. c. 22. 13 & 14 W. 3.*

Maltsters concealing or conveying away *Conceal-* malt from the sight of the gauger, shall *ments of* forfeit 10 s. a bushel; but justices of peace *malt from* have power to mitigate penalties, so as they *gaugers, &c.* be not reduced to less than double duty. *2 Ann. c. 2.*

And maltsters permitting barley to be wet- *Mixing* ted on the floor, or any where but in the *and wet-* Cistern entered, forfeit 2 s. 6 d. a bushel, *Stat. ting corn.* *6 Geo. 1. c. 20.*

If any maltster, &c. fraudulently mix un- *Unsalted* malted corn with malt; or corn making into *corn mix'd* malt of one wetting, with that of a former, *with Malt,* &c. before put on the kiln for drying, he &c. shall

shall forfeit 5*s.* *per* bushel. *Stat.* 1 *Geo.* 1.
2 *Geo.* 2. c. 1.

*Malt ex-
ported
duty-free.*

Malt made for exportation, is not liable to duty; but must be entered and kept separate under the penalty of 50*l.* &c. 12 *Geo.* 1.

*Allowance
on exporta-
tion.*

*Certificate
and secu-
rity given,
&c.*

An allowance is to be made maltsters for exporting malt, on producing certificates, from officers with whom entered, and giving Security not to reland it; but if landed in any Part of *Great Britain*, the same to be forfeited, and treble value, &c. by *Stat.* 3 *Geo.* 2. c. 7. 6 *Geo.* 2. & 9 *Geo.* 2.

The forfeitures above are leviabie by constables, &c.

*Measures.
Constables
to examine
them.*

Constables are to examine if persons use measures not agreeable to the standard, by the statute 22 *Car.* 2.

*Ale measures
mark'd, &c.*

And alehouse-keepers, &c. are to sell their ale by a full ale quart or pint measure, according to the standard in the exchequer, and mark'd, or forfeit a sum not exceeding 40*s.* nor under 10*s.* leviabie by constables, &c. *Stat.* 11 & 12 *W.* 3. c. 15.

See more, Title *Weights and Measures.*

*Militia.
Persons
chargeable
to the Mi-
litia.*

*To find a
foot soldier,*

*To find a
horseman,
and allow-
ance per
diem.*

In respect to the militia, persons having an estate of 50*l.* *per annum* in Lands, or Goods to the value of 600*l.* are liable to be charged to find a man for the foot-service, and allow him one shilling a day; and persons who have 100*l.* *per annum*, &c. are chargeable to either foot or horse.

But a person should have 500*l.* a year, or personal estate of 6000*l.* value, to furnish a horseman; who shall be allowed 2*s.* 6*d.* *per diem*, and must carry with him of powder

der and ball, a quarter of a pound, double which quantity is to be carried by the foot soldiers. *Stat. 13 & 14 Car. 2. c. 3.*

And money charged upon any person by *Constables* the lord lieutenant, or his deputies, for the *to levy* providing of arms for horse and foot soldiers *money.* in the militia, shall be levied by constables by distress; and if no distress is to be found, the constables, by warrant from the lord lieutenant, &c. may commit the offender till satisfaction be made.

Horsemen are to be provided with a broad *Arms to be* sword, a case of pistols of twelve inches *furnished* long in the barrel, a carbine, with belt and *for mili-* bucket, great saddle, &c. And foot soldiers *tia, by* with a musket five foot long in the barrel, *Stat. 1 &* the gauge of the bore for bullets of twelve *3 Geo. 1.* to the pound, with a bayonet to fix in the muzzle, a cartouch-box, and a sword. *Stat. 9*
1 Geo. 1. c. 11.

Constables are authorized by the common *Night-* law to take up nightwalkers of ill fame, and *walkers.* carry them before a justice. *To be taken*

But tho' constables may arrest nightwal- *up by con-* kers, by the statute of *5 Ed. 3.* yet it has *stables.* been held, that 'tis not lawful for a constable *But not on* to take up any woman upon bare suspicion *a bare sus-* only, of being of ill fame; unless she be *picion only.* guilty of a breach of the peace, or some unlawful act, and be found by him misdoing.
2 Hale's Hist. P. C. 89.

Common nightwalkers may be bound to *Bound to* the good behaviour; or be indicted before *good beha-* justices of peace, &c. So may haunters of *viour, &c.* bawdy-houses. *1 Hawk. P. C. 132.*

Norwich stuffs. Vide Cloth and Clothiers.

Robbers

Richards.
Robbers of
orchards,
how pu-
nished, and
penalties.

Robbers of orchards, destroyers of under-wood, &c. shall be whip'd by constables, being ordered by a justice of peace's warrant, for default in making satisfaction to the party injured: The satisfaction is at the discretion of the justice, and the offender to pay a sum not exceeding 10s. for the poor. *Stat. 15 Car. 2. c. 2.*

See Title *Hedge-breakers.*

Papists. See *Papish Recusants.*

**Physi-
cians.**
Constables
to assist the
college of
physicians.

Constables in the city of *London*, and within seven miles thereof, are to assist the president of the college of physicians, and such who shall have authority from him, &c. to put the laws in execution concerning the said college. The neglect is a contempt to the king. *Stat. 14 & 15 H. 8. c. 5.*

Persons li-
censed to
practise
physick in
London.

And in *London*, &c. none shall practise physick without licence of the college, on pain of forfeiting 5*l.* a month, unless it be persons having knowledge in herbs, &c. who may minister to outward sores, and use drinks for the stone, strangury, or agues. 14 & 15 *H. 8. 34 & 35 H. 8. c. 8.*

Medicines to
be searched,
&c.

Four physicians call'd censors are to be yearly chosen by the college; who shall search apothecaries wares, and examine medicines, and burn or destroy those that are defective, &c. *Stat. 32 H. 8. c. 10. 10 Geo. 1.*

Plague.
Persons in-
fected to
keep with-
in doors.

Constables may command and oblige persons infected with the plague to keep within their houses; and if after such command they wilfully go abroad, having any infectious sores upon them, it is felony; and if

if they have no fores, they may be bound to the good behaviour, and punished as vagabonds, by whipping, &c. *Stat. 1 Jac. 1. cap. 31.*

Constables neglecting to levy the money *Monies for* assessed by justices for relief of poor persons *relief of poor* infected with the plague, forfeit 10 s. for *persons.* every offence. *Ibid. Stat.*

Justices of peace, mayors, &c. are to ap- *Searchers,* point searchers, watchmen, and buriers of per- *buriers, &c.* sons infected, &c.

When the plague is in any country abroad, *Quarentine* ships are to perform quarentine; and persons *to be per-* quitting them before performed, shall forfeit *formed when* 200 l. Goods after quarentine to be aired, *plague a-* and if infected burnt, &c. *Stat. 9 Ann. c. 2. broad.*

7 *Geo. 1. c. 3.*

And the king by proclamation, may pro- *The king's* hibit trade with places infected; landing *proclamation.* goods brought from thence is felony. *Stat.*

6 *Geo. 2. c. 34.*

Common players of interludes, and jug- *Players.* lers, &c. wandering, may be taken up by *May be* constables as vagrants. *Stat. 12 Ann.* *taken up.*

Persons acting any plays, without licence, *Acting with-* from the lord chamberlain, &c. to be deemed *out licence,* vagabonds, and treated accordingly, or for- *how pu-* feited 50 l. and two justices of peace may in- *nished.* quire into it, and order the forfeiture to be levied by distress and sale, by constables; or for want thereof, send the offenders to the house of correction for six months. *Stat.*

10 *Geo. 2. c. 28.*

In putting the laws in execution against *Popish Re-* popish recusants, constables, &c. are con- *cusants.* cerned.

They

*Complaint
to justices
of persons
suspected.*

They are to complain to a justice of persons suspected of recusancy; and such justice, on their refusal of taking the oaths, may commit them till the next assizes or sessions.

7 *Jac.* 1. c. 6.

*Present those
who absent
from church.*

They are to present once a year, to the quarter-sessions, those who absent themselves from church for the space of a month; and the names of their children above nine years of age living with them, and such servants as they retain. *Stat.* 3 *Jac.* 1. c. 4.

Neglecting, forfeit 20s. for every default: And popish recusants forfeit 20l. a month for absenting from church.

*To certify
names of re-
cusants, &c.*

Constables are likewise to certify to the quarter-sessions, the names of popish Recusants convict, who within twenty days after their arrival at the place of their birth (having no certain settlement elsewhere) give in their names; and the parson of the parish is to enter them in a book for that purpose. *Stat.* 35 *Eliz.* c. 2.

*Recusants
not to tra-
vel above
five miles.*

Popish recusants above the age of sixteen, are, within forty days after their conviction, to repair to their usual dwellings, and not remove above five miles from thence, on pain of forfeiting all their goods, &c. and if they have no certain place of residence, then they are to go to the place of their nativity, or where their parents dwell, and within twenty days to give their names in Writing, to the minister, constables, &c. *supra.* *Stat.* *Ibid.*

*Register of
estates.*

Papists and popish recusants are to register their Estates, on pain of forfeiture, &c. They are incapable to purchase lands: And no Lands shall pass from papists by deed or will, without inrolment. 1 & 3 *Geo.* 1.

Constables.

71

All persons of the age of eighteen, to take *All persons* the oaths, or register their estates, as papists; to take the but this is not to extend to women, persons oaths, &c. having only an estate in reversion, or under 10*l.* a year, &c. And one year's rent of lands is to be forfeited, for default of registering. *Stat. 9 & 10 Geo. 1.*

Sums under 5*l.* due for postage of letters, *Post-let-* are to be recovered in the same manner as *ters.* small tithes; by complaint in writing before *Postage of* two justices, &c. and if the party refuse to *letters reco-* pay the money awarded, in ten days after no- *vered be-* tice, a constable, &c. by warrant from the *fore justices.* justices, is to distrain his goods, and the di- *Distress by* stress may be sold in three days. *Stat. 9 Ann. constables.* c. 10.

The price of postage is 3*d.* for a single *Price of* letter from any place not distant above eighty *postage af-* miles; for a double letter 6*d.* and so pro- *certained.* portionably for packets. Packets of writs, deeds, &c. 12*d.* per ounce: single letters above eighty miles distant 4*d.* double letters 8*d.* single letters to and from *Edinburgh* 6*d.* &c.

No person but the postmaster shall receive, *Carriers, &c.* take or carry letters, &c. under the penalty *not to carry* of 5*l.* And carriers, stage-coachmen, &c. *letters.* are not to carry any letters except such as concern goods sent by them. *Stat. ibid.*

Constables are to make presentments on oath *Present-* at the quarter sessions, and the assizes, of all *ment.* things within their knowledge against the *Particulars* peace, and relating to their offices; as affrays, *presentable.* bloodsheds, bridges out of repair, cottages erected contrary to law, drunkenness, gaming-houses, felonies, forestallers, &c. nuisances, disturbers

disturbers of the peace, popish recusants, rescues, false weights and measures, &c. and generally all other things mentioned in the particular oath of constables.

*Manner of
making pre-
sentments.*

High constables, by virtue of a warrant from justices of peace, issue their precepts to petty constables, to make enquiry and presentment, &c. and they usually make their returns, and bring them to a justice to sign, and then carry them to the high constable, who gives oath that he had them from the petty constable. *Dalt. c. 28.*

The presentment of *A. B.* constable of, &c. in the county of, &c. made at the general quarter-sessions of the peace, held for the said county, the day, &c.

*Form of a
constable's
presentment.*

THE said *A. B.* says and presents upon his oath, That *C. D.* of the parish of &c. in the county aforesaid, does at this time keep, and has for the space of one month past, kept an unlawful gaming house in the parish of, &c. viz. he has permitted servants, apprentices, &c. to play at cards, dice, and other games prohibited by law, to the great encouragement of vice, and disturbance of the Neighbourhood there.

The said *A. B.* likewise presents upon his oath, that *E. F.* of the said parish of, &c. has lately carried out stinking carcasses, and other filth into the highways, which is a common nuisance to the parish, and an annoyance to travellers.

The said *A. B.* also presents *G. H.* to be a common disturber of the peace.

The

The house of correction, and the *compters* **Prisons.**
of the sheriffs of *London*, are the common
prisons for offenders for the breach of the
peace, &c.

To the last, constables may convey persons *Precaution of*
taken up by the watch late at night, and who *constables.*
are unruly or suspicious: But they ought to be
careful who they send thither, for fear of Actions
for false imprisonment.

Justices of peace have power to commit *Justices*
criminals charged with small offences, either *Power to*
to the common gaol, or house of correction. *commit to*
Stat. 6 Geo. 1. c. 19. *prison.*

See Titles *Watch* and *Gaol*.

Prisoners are to be relieved in prison by our **Prisoners.**
laws and statutes. *Relieved.*

Justices of peace in the sessions, may tax *Tax for poor*
every parish in the county, not exceeding a *prisoners.*
certain sum yearly, for the relief of poor pri-
soners, leviable by constables, &c. *Stat. 43*
Eliz. c. 2.

There have been also divers statutes made *Acts for dis-*
for discharging poor debtors out of prison, *charging poor*
who had nothing wherewith to pay and satisfy *insolvent*
their debts. *debtors.*

And by a late statute, persons charged in
execution for any debt, not exceeding 100 l. *Debtors dis-*
on petition to the court whence the process *charged in*
issued, with an account of all their estates and *execution, by*
effects upon oath, may be discharged out of *2 Geo. 2.*
prison, on assigning their effects to the credi-
tors, unless they insist upon their being de-
tained, and agree to pay them 2 s. 4 d. a
week whilst in prison. *Stat. 2 Geo. 2. c. 2.*

See Title *Escapes.*

E

Sheriffs,

Riots.

To be suppressed.

Sheriffs, constables, &c. *ex officio*, are to suppress all riots, and to commit offenders, and all such who break the peace. *Stat.* 17 R. 8. c. 8.

What is a riot, rout, and unlawful assembly.

And it is necessary to be observed, that when three or more persons assemble together with an intention of doing any unlawful act, with force and violence, as to beat or wound a man, pull down a house, wall or hedge, or destroy any park, warren, &c. And if they only meet for such a purpose, without putting their design in practice; this is an *unlawful assembly*: and if after such assembling they move forwards to put their projects in execution, though they do not execute them, this is a *rout*; and if they do perpetrate and execute what they intended, then it is adjudged a *riot*: and going in armour, or shewing any intention of violence, to the terror of the king's subjects, shall be deemed a *riot*. *Poulton* 24, &c.

Assemblies for sports, &c. lawful.

An assembly of three or more who design no violent act against the peace, is not unlawful; and assemblies on *Midsummer* and *May* days, bull-baiting, bear-baiting, foot-ball, and such sports, cudgel-playing, &c. women meeting in numbers, stage-players, &c. are not forbidden by the statutes; but causing a great number of stage-players to assemble, is adjudged a riot. 1 *Roll.* 9.

Riots in forcible entries.

If three, four, or more persons, enter into lands with force, upon the possession of another, tho' the entry be lawful, yet it is a riot; because forcible entries are prohibited by the statute 15 *Ric.* 2. c. 2. *Dalt.* 297, &c.

Riot at 1 Geo. 1.

By the statute 1 *Geo.* 1. c. 5. if twelve or more unlawfully and riotously assemble, a justice

Constables.

75

justice of peace, sheriff, mayor, or other head officer of any town corporate, on notice of such assembly, shall come as near them as he can with safety, and make the following proclamation.

OUR sovereign lord the king charges and commands all persons assembled immediately to disperse themselves, and peaceably depart to their habitations, or lawful business, on pain of imprisonment, or the penalties inflicted by the act made in the first year of the reign of king George I. for preventing tumults and riotous assemblies.

God save the king.

If the rioters do not disperse within an *Felony*. hour after this proclamation made; or if they obstruct or hinder the proclamation, or hurt him who makes it, it is felony without benefit of clergy; and high constables, petty constables, and persons assisting may seize them, and carry them before a Justice; and if any of the rioters are killed, he who killed them is indemnified.

Demolishing a meeting-house, dwelling- *Pulling down* house, barn, stable, &c. is made felony; *houses*. and the town or hundred shall yield damages to repair them.

Persons going abroad arm'd in disguises, *Act 9 G. 1.* robbing forests, parks, fish-ponds, or setting *c. 23. to pu-* fire to any house, shooting at persons, sending *nish incendia-* threatening letters demanding money, killing *ries*, &c. or maiming cattle, cutting down trees in any avenue, garden, &c. are guilty of felony, by the statute 9 Geo. 1. c. 23.

E 2

Rob-

Robbery.

*By common
law, and by
late stat.
7 G. 2.*

Robbery is a felonious taking away of money or goods from the person of another, in a violent manner on the highway; and though the taking be but one penny, 'tis felony of death by the common law: And by a late act, persons assaulting others forcibly, with intent to rob them, shall be transported.

*Tax where
a robbery
committed.*

Where damages are recovered against a hundred for a robbery committed on the highway, and two justices have set a tax upon the several parishes in the hundred; the constables in every parish are to tax particularly every inhabitant of those parishes, and levy the same by distress, &c. *Stat. 27 Eliz. cap. 13.*

*Hundred
chargeable.
In what cases
the hundred
excused.*

The hundred is chargeable where a robbery is committed in the day-time, of any day, except Sunday: But no hundred shall be chargeable if any one of the malefactors is apprehended in forty days; or when the action is not commenced within a year. *Ibid. Stat.*

*Robbers ap-
prehended.*

A reward of 40*l.* is ordered by statute for apprehending a robber on the highway; and the apprehenders to have likewise the horses, arms, &c. of robbers. 4 & 5 *W. & M.*

*Actions
against the
hundred by
8 G. 2.*

*Notice in
Gazette.*

In an action against the hundred, on a robbery committed, process must be served on the high constable, who shall appear and defend the action, for which he is to be allowed his expences, &c. and publick notice of the robbery must be given in the *Gazette*; and the hundred shall not be charged, if any of the robbers are taken in forty days after such notice. *Stat. 8 Geo. 2. c. 16.*

And

Constables.

77

And 10*l.* reward shall be paid by the *A farther re-*
hundred, for apprehending and taking any *ward given.*
robber, within the time limited. *Stat. ibid.*

See Hue and Cry.

Constables are to whip wandering rogues, **Rogues.**
vagabonds, &c: by stripping them naked from *Wandering*
the middle upwards, and causing them to be *rogues to be*
lashed until their bodies be bloody, in the *whipped.*
presence of the minister of the parish, or
some other inhabitants; and then to send them
away to the place of their birth, &c. Not
endeavouring to seize rogues, or punish them,
forfeit 10*s.*

Persons running away, and leaving a charge *Incorrigible*
to the parish, are to be punished as *incor-*
rigible rogues; and if any threaten so to do,
without giving security to the parish, he
may be committed to the house of correction.
Dalt. 211.

And those rogues are looked upon as in- *Who are*
corrigible, who appear dangerous to the infe- *such, and*
rior sort of people; threatening or offering any *their punish-*
violence to them, or that will not reform *ment.*
after being once whipped, &c. And by the
statute 1 *Jac. 1. c. 7.* they were to be pu-
nished by whipping, and burning on the left
shoulder the first time; and offending again,
it was declared felony. But this statute is
repealed; and by the Stat. 12 *Ann.* an incor-
rigible rogue is to be whipped three market-
days in some market town, and kept at hard
labour so long as the justices shall think fit:
Though if he makes his escape, it is felony
by this act.

*Description
of incorri-
ble rogues,
and how
punished by
17 Geo. 1.*

A late statute ordains that persons apprehended as vagabonds, and escaping, or refusing to go before a justice, or giving a false account of themselves, and all such persons breaking prisons, before the expiration of the term, or who having been punished and discharged, commit a second offence, shall be adjudged incorrigible rogues; and the justices of peace in their sessions may order them to be sent to, or detained in the house of correction for six months, and there kept to hard labour and whipped, in manner and as often as they think fit, &c. *Stat. 13 Geo. 2. c. 24.*

Vide more, Title Vagrants.

Sabbath. See Sunday.

Sail-cloth.

Any person working into sails or tarpaw-lins foreign sail-cloth not stamped, as by the act is directed, forfeits 50 *l.* for every sail or tarpawlin, to be levied by warrant of distress, and for the use of the informer; and for default of distress to be imprisoned for six months, or until he pays the penalty. *Stat. 19 Geo. 2. c. 27. §. 7.*

Salt.

*Sold by
weight, un-
der a penalty.*

Salt shall be sold by weight, after the rate of 56 pounds to the bushel, under the penalty of 5 *l.* leviable by constables, on a justice of peace's warrant. *Stat. 9 & 10 W. 3.*

*Duty and
forfeitures
leviable by
constables.*

A duty is also granted on salt, and pits to be entered, &c. And forfeitures for not entering them, shall be levied by the constables, &c. 5 *Geo. 2.*

The

The acts for the salt duties, having been *Acts revived.*
repealed, are revived and continued. *Stat.*
7 Geo. 2. c. 6.

The statute 5 Eliz. c. 4. directs testimo- **Servants.**
nials to be given by mayors of towns, con- *Testimonials*
stables, and two householders to servants quit- *by constables,*
ting their services. A servant not producing *&c.*
a testimonial to the chief officer in a corpora-
tion, or to the constable, minister, or church-
wardens where he designs to dwell, may be
imprisoned till he can get one; and if he do
not procure one in one and twenty days, he
is to be whip'd and punished as a vagabond;
and masters retaining a servant without such
testimonial, forfeit 5*l.*

I A. B. of, &c. in the county of, &c. do *A testimonial*
hereby license my servant C. D. to depart *for a Servant.*
from my service, he having served me faith-
fully; and I do declare the said C. D. is at
full liberty to serve any other master elsewhere,
according to the statute in that case made and
provided. Witness my hand, &c. this day,
&c.

A. B.

We do hereby allow of the above licence and
Testimonial.

E. F. constable of, &c. *aforsaid.*

G. H. } *Householders there.*
I. K. }

This good statute is of late very little re-
garded.

See more, Title *Servants* under the head
Church-wardens, and Overseers of the poor.

**Shoema-
bers.**

*Searchers
and sealers
of leather.
Bad leather
used by shoe-
makers.*

The master and wardens of the Shoemakers company in *London*, and mayors, &c. shall appoint searchers and sealers of leather; leather not sufficiently tanned, to be forfeited; and being sold before searched and sealed, incurs the penalty of 6 s. 8 d. Also Shoemakers are to make their shoes of sufficient stuff, on pain of 3 s. 4 d. to be levied by constables, by warrant from justices, &c. *Stat. 1 Jac. 1. c. 22. 13 & 14 Car. 2.*

*Journeyman
shoemakers
imbeziling,
&c.*

If any journeyman shoemaker, within *London* or the bills of mortality, purloin, imbezil, sell or pawn any materials for making of shoes, &c. he shall be ordered by a justice to make satisfaction, or to be whipt.

Justices of peace may grant warrants to constables to search after such goods, in the houses of persons suspected to have the same.

*Act 9 G. 1.
Or neglect-
ing work
undertaken.*

9 Geo. 1. c. 27.

All journeymen employed in making shoes, boots, gloves, breeches, &c. neglecting it, by working for any other master, before they have compleated the work first undertaken, shall be sent by a justice to the house of correction for a month.

*Forfeiture
for imbezil-
ling, and pe-
nalty on re-
ceivers, by
new Act*

And imbeziling or illegally disposing of such wares, or any woollen, linen, or iron manufactures, &c. shall forfeit double value; also buyers and receivers are subject to the same penalty, or may be committed, &c. *Stat. 13 Geo. 2. c. 8.*

13 Geo. 2.

Smuglers. See Customs.

Soldiers
*to be quar-
tered by
constables.*

Constables, tithingmen, &c. are to quarter soldiers in inns, livery-stables, alehouses, victualling houses, and houses selling brandy, strong waters, cyder or metheglin by retail,

retail, (houses of distillers, and of shopkeepers, whose dealing is more in other goods than in brandy, &c. so as such distillers and shopkeepers do not suffer tippling in their houses, and private houses, excepted). Stat. 1 Geo. 1. c. 3. Stat. 19 Geo. 2. c. 11. §. 17, 30.

In *Westminster*, the soldiers are to be billeted equally and proportionably, according to the number of soldiers, and of the houses so subjected to receive them. Stat. 19 Geo. 2. c. 11. §. 31.

And the constables, &c. in *Westminster*, are at every quarter sessions to deliver lists of all such houses, with the number of persons inhabiting the same, as are subject to receive soldiers, with the number of soldiers quartered in each house; the lists to be inspected by any person without fee or reward, and the clerk of the peace is to make copies thereof for any person requiring the same, on being paid two pence for every 150 words. Penalty of 5*l.* to the poor, on constable, &c. making default or false lists. Same Stat. §. 32.

Any constable, &c. refusing for two hours *Refusing to* after notice to billet soldiers, or taking any *quarter* sum to excuse any person from quartering a *soldiers.* soldier; and any victualler, &c. refusing to receive or victual any soldier, or refusing to allow good and sufficient hay and straw for each horse, on conviction shall forfeit not less than 40*s.* nor more than 5*l.* Stat. 19 Geo. 2. c. 11. §. 58.

Constables, &c. on warrant, to deliver to a justice of peace a list of the soldiers, and the names, &c. of the house-keepers on whom quartered. Same Stat. §. 59.

*Not to be
quartered
on private
houses.*

*Account
given, &c.*

*Soldiers
Wives and
children
quartered.*

*Soldiers how
inlisted, and
when may be
discharged.*

*Prices to pay
for provisions.*

*Not to kill
game, or
poultry.*

If any soldier shall be billeted on private houses, without the owner's consent, he may have his remedy at law; and any military officer, quartering soldiers otherwise than as directed by statute, or abusing the constable, &c. shall be cashier'd. Any justice of peace may command constables, &c. to give an account in writing of the number of officers and soldiers billeted by them, with the names of the persons on whom billeted, and their streets, signs, &c. to prevent abuses in the quartering of soldiers.

Officers civil or military are not to quarter their wives, children, or servants of officers or soldiers in any house, without the consent of the owner, on pain of being cashiered, if an officer of the army; and of forfeiting 20 s. if a constable, &c. leviable by warrant of the next justice of the peace. 3 Geo. 2. c. 2. Stat. 19 Geo. 2. c. 11. §. 40.

A soldier inlisted, is in four days to be carried before the next justice, and declare his assent that it was voluntarily; but if he dissents thereto, on returning the money received, and 20 s. for charges, he shall be discharged: inlisting soldiers, to serve any foreign prince, without leave, is felony. 8 Geo. 2. c. 2. and 9 Geo. 2. c. 30. Stat. 19 Geo. 2. c. 11. §. 61, 62.

Officers and soldiers are to pay the prices appointed by justices at their sessions, for necessary provisions one or more nights, in the places they come to in their marches, or ordered for their quarters. Stat. 12 Geo. 2. c. 2.

If any officer or soldier without leave of the lord of the manor, under his hand and seal,

seal, killing any hare, &c. partridge, pigeon, other sort of fowls, poultry or fish, on conviction, forfeits 5 l. to the poor; and every officer commanding in chief, for every such offence committed by any soldier, shall forfeit 20s. Penalties not being paid within two days after conviction and demand, the officer forfeits his commission, and the same is declared void. *Stat. 19 Geo. 2. c. 11. §. 41.*

Soldiers suspected of desertion may be taken up by constables, &c. and 20s. reward is given for apprehending them: Persons concealing deserters, buying their clothes, &c. to forfeit 5 l. And perswading and procuring soldiers to desert, incurs a penalty of 40s. *Stat. 1 Geo. 1. c. . Stat. 19 Geo. 2. c. 11. §. 55.*

Any person harbouring, concealing or assisting a deserter, or detaining, buying or exchanging any arms, cloaths, caps or other furniture belonging to the king from any soldier or deserter, or causing the colour of such cloaths to be changed, incurs a penalty of 5 l. *Stat. 19 Geo. 2. c. 11. §. 45.*

By 11 & 12 W. 3. lewd and disorderly servants, vagabonds, and sturdy beggars, were to be sent to serve his majesty at sea, by warrant from a justice directed to the constable, &c. *And seamen.*

Constables and church-wardens, are to levy by distress, money rated on persons for relief of poor maimed soldiers and mariners, and pay it to the high constable. *To levy money for maimed soldiers, &c. Stat. 43 Eliz.*

Spirituus liquors. See *Alehouses, Distillers.*

Sunday.*Searches made.*

Search is usually made on a Sunday, by constables and other parish officers, after such as profane the sabbath, &c.

Forfeitures for playing, &c. on a Sunday.

Persons who resort to wrestling, bowling, dancing, or any sport, on a Sunday, forfeit 5 s. if above fourteen years of age, and 1 s. if under, levied by constables by warrant of one justice; and constables, church-wardens, &c. are to levy the penalty of 3 s. 4 d. of

Ufing games.

such as use bull-baiting, games or plays, on a Sunday, for the use of the poor, by distress; for want whereof the offenders shall be set in the stocks three hours. *Stat. 1 Car. 1. c. 1.*

Working on Sundays, &c.

If any person doth any worldly labour on a Sunday, (except works of necessity) he forfeits 5 s. And crying or exposing to sale any ware, unless it be milk or mackarel, incurs a forfeiture of the wares to the poor. Butchers killing or selling victuals, are liable to a penalty of 6 s. 8 d. Carriers or drovers, &c. travelling, shall forfeit 20 s. and persons using boats, &c. on a Sunday, (not allowed by a justice of peace) forfeit 5 s. *Stat. 29 Car. 2. c. 7.*

Officers serving warrants.

If any persons shall serve any warrant, process, &c. on Sundays, (except in cases of treason, felony, or breach of the peace) they shall answer damages as if done without warrant, for false Imprisonment, and the service be void. *29 Car. 2. c. 7.*

Disturbing ministers.

If any one disturb a minister in preaching, praying, or administering the sacraments, constables may apprehend him and carry him before a justice, &c. *1 Mar.*

See the general head *Church-wardens.*

If

If a constable have a warrant to execute **Super-** for sureties of the peace; and afterwards ha- **sedas.** ving a *Supersedeas* from the court of chan- *To be obeyed* cery, or from another justice, &c. to dis- *by constables.* charge the sureties, he still insists upon having the party find sureties, and he refuse, and is detained, it is false imprisonment in the constable. *Dalt. Nat. Br. 524.*

A *Supersedeas* is, as good cause to discharge *Good to dis-* a Person, as the first warrant or process is to *charge a* arrest him. *2 Cro. 379.* *person.*

The penalty for prophane cursing or swearing is for every labourer, common soldier, **Swearing.** common sailor and common seaman 1 s. every other person under the degree of a gentleman 2 s. every person of or above the degree of a gentleman 5 s. A second offence after conviction of a first offence, to pay double. A third offence after a second conviction, to forfeit treble those respective sums.

Profane cursing and swearing in the hearing of a magistrate, he may proceed to convict, without further proof.

Profane cursing and swearing in the hearing of a constable, &c. (if the offender be unknown to him) he is to seize the offender and carry him before a magistrate, who, on the oath of the constable, &c. is to convict the offender. If the offender be known to the constable, &c. he is to give information of the offence to a magistrate, that the offender may be convicted.

Offender, on conviction, not immediately paying the penalty, or giving security, to be sent to the house of correction for ten days.

Common

Constables.

Common soldier or sailor belonging to any ship, not immediately paying the penalty, or giving security, and also costs of the information, summons and conviction, to be set in the stocks for one hour for a single offence, and for any number of offences, whereof he shall be convicted at one time, two hours.

A magistrate omitting to perform his duty, forfeits 5 *l*.

A constable omitting to perform his duty, forfeits 40 *s*.

Conviction final, not liable to be removed by *certiorari*, and to be filed with the clerk of the peace.

Penalties to go to the poor.

Charges of information and conviction to be paid by the offender, if able, and ascertained by the magistrate. If the party be not able, or shall not pay the charge or give security, he is to be committed to the house of correction for six days over and above the time he may be committed for not paying the penalty.

All offences against this act to be presented in eight days.

This act to be read four times a year in all parish churches and publick chapels, by the parson, vicar, or curate, *viz.* the respective sundays on which divine service shall be performed after 25 *March*, 24 *June*, 29 *September*, and 25 *December*, on penalty of 5 *l*. for each neglect, to be levied by warrant of distress.

The justice's clerk to take for the information, warrant and conviction, 1 *s*. and no more.

Statute 21 Jac. 1. c. 20. and Stat. 6 & 7 W. 3. c. 11. repealed, Stat. 19 Geo. 2. c. 21.

Taylors

Taylor giving greater wages than the statute allows, shall forfeit 5 l. And their journeymen accepting thereof, or refusing to work for wages allowed, shall be sent to the house of correction for two months.

And masters not paying lawful wages, it shall be levied by distress, &c. by constables, by virtue of a justice of peace's warrant. Stat. 7 Geo. 1. c. 13.

See Buttons.

In London the sums of money ordered in lieu of tithes, are to be paid quarterly to the parsons, &c. and upon refusal, the lord mayor may grant warrants for the collector, with the assistance of a constable, to levy it by distress and sale of his goods. Stat. 22 & 23 Car. 2. c. 15.

Constables and headboroughs, by virtue of a warrant from two justices, are to levy money adjudged for refusing the payment of small tithes, by distress, and sale in three days, &c. And two justices of peace have power to summon the party, hear the complaint by witnesses on oath, and give judgment by making an allowance for the tithes, and ordering costs not exceeding 10 s. Stat. 7 & 8 W. 3. and 3 & 4 Ann.

The tithes are to be under 40 s. per ann. And tithes due from quakers, under 10 l. are thus recoverable. But this remedy is extended to the recovery of any tithes, church-rates due from quakers, by 1 Geo. 1. cap. 7.

Constables,

Tobacco.

To be destroyed under certain penalties.

Constables, &c. upon information of tobacco, set, sown, or planted in any ground (except physick gardens,) are to destroy the same within fourteen days after receiving a warrant from two justices of the peace to that purpose, on pain of forfeiting 5 s. for every rod unconsumed. *Stat. 22 & 23 Car. 2. cap. 26.*

Refusing officers.

Persons resisting the officers shall forfeit 5 l. to be levied by distress and sale, or be committed for three months; and persons refusing to assist the constable forfeit 5 s. or to be committed for a week.

Search made by constables.

Constables, upon warrant, are to make a search, and present offences of planting tobacco, &c. at the next quarter-sessions: And those that plant it, are liable to the penalty of 10 l. for every rod of ground so planted in England. *Stat. 17 Car. 2. c. 7. 22 & 23 Car. 2.*

Penalty of planting.

Leaves coloured.

Cutting walnut-tree leaves, and other leaves, or colouring them to resemble tobacco; or selling them mixed with tobacco, incurs a forfeiture of 5 s. per pound. *1 Geo. 1. c. 45.*

Turnpikes.

To execute warrants. And levy penalties.

Constables are to execute the warrants of commissioners for turnpikes, &c. under the penalty of 5 l.

And shall by justice's warrant levy the forfeiture of persons assaulting or threatening collectors, or passing through turnpike-gates, without paying the toll appointed by statute *8 Geo. 2. c. 20.*

8 Geo. 2.

See Surveyors of highways.

By

By our law, a vagrant is one that wanders **Vagrants.** about, and has no certain dwelling; and *Vagrant in* whoever is able to labour, but will not, and *general, who* thus wanders abroad, having nothing to sub- *is such.* sist upon, is a vagrant rogue.

A late statute particularly describes va *Stat. 13 Geo. 2.* grants, and other idle disorderly persons: All *Vagrants* patent gatherers, or gatherers of alms, un- *particularly* der false pretences of loss by fire, collectors *describ'd by* for prisons, fencers, and bearwards, players *this act.* of interludes, &c. not being authorized by law, all minstrels, juglers, gypsies, pretenders to physiognomy, or palmeitry, fortune tellers, persons that play at unlawful games, or who run away from their wives and families, whereby they become chargeable to the parish; also all petty chapmen, or pedlars with- *Further de-* out licence, and wanderers lodging in barns *scription of* or out-houses, or pretending to be soldiers, *vagrants.* mariners, or seafaring men, or that pretend to go to work in harvest not having certificates, and all wandering beggars shall be deemed rogues and vagabonds: And persons threatening to leave their wives and children to the parish; or returning to any parish from whence legally removed, without a certificate from the place to which they belong; persons living idly, and refusing to work for common wages; or begging from door to door, or who place themselves in streets to *Persons beg-* beg alms in the parish where they dwell, are *ging from* adjudged idle and disorderly persons; and any *door to door,* justice of the peace may commit them to the *idle and disorderly persons.* house of correction for a month; also any person may apprehend and take before a justice, people going from door to door, or placing themselves in the streets, &c. to beg; and

and if they resist, they shall be punished as vagabonds, and 5 s. is to be paid by the overseer of the poor for every offender so apprehended.

Reward for apprehending them what, and how paid.

Persons apprehending any vagabond as above described, and causing him to be conveyed to some justice, he may make an order for the constable, &c. to pay 10 s. to the person that apprehended the offender, which is to be repaid by the high constable, who shall be allowed the same in his account by the treasurer of the county, &c. And if any petty constable refuse to pay the 10 s. the justice by warrant may levy 20 s. by distress of his goods, to answer the same to the party, and for trouble, loss of time and charges.

Manner of passing vagabonds from one house of correction to another, &c.

When vagabonds are apprehended, and taken before a justice, they may be committed till the next quarter-sessions, or for any less time; and be examined and sent away by pass to their places of legal settlement or birth, &c. The constable or other officer having such pass, and a certificate how they are to be conveyed, with what recompence he is to have, &c. shall convey the persons therein named, according to the directions of the pass, the nearest way to the place where they are ordered to be sent, if it be in the same county, or next adjoining, and there deliver them to the overseer of the poor, &c. but if the place is in some distant county, &c. the constable shall deliver them to the master of the next house of correction, together with the pass and certificate, taking his receipt for the same; and so they are to be conveyed from the house of correction in one county to the house of correction in another,

till

all they come to some house of correction in *till come to* the county, &c. wherein the place is, to *the county* which they are ordered, there to be kept to *and place or* hard labour, not exceeding a month, and *dered.* then delivered to the Officer of such Place to be provided for; who shall employ them in some workhouse, &c. till they betake themselves to some employment.

And the justices of peace at their general *Rates ap-* quarter-sessions, are to direct what rates *per pointed by ja-* mile or otherwise, shall be paid for passing *slices.* vagrants; and make orders for the more regular acting therein, &c.

If any high constable refuses to pay the pet- *The high con-* ty constable the rates appointed by a justice *stable refu-* for conveying vagabonds, any justice of peace *sing to pay* may by warrant levy double the sum on his *petty constable* goods by distress and sale, and thereout allow *bles rates.* the petty constable the sum certified, and other expences, &c. And in places where there is no high constable, the petty constable, or other officer, shall be allowed what they shall so pay by the treasurer of the county, in their accounts, on producing vouchers.

The treasurer of the county, &c. shall *Charge in* pay out of the publick money in his hands, *passing va-* to the master of the house of correction within *grants payed* the said county, all his expences in passing *by treasurers* vagabonds; he bringing the certificate, with *of counties.* a receipt from the master of the house of correction, or church-warden or overseer to whom such persons are delivered, and giving his own receipt for the same.

Constables, &c. that counterfeit any cer- *Counterfeiting* tificate, or receipt, or if they alter the same *Certificates or* shall forfeit 50 l. and if they do not convey the *receipts, or not* persons to the place where they ought to be *conveying* conveyed; or shall refuse to receive any per- *persons, &c.* son the penalty.

son sent to them, or to give a receipt, they are liable to 20 *l.* penalty, to be levied by distress and sale of goods, by warrant of the justices at the quarter-sessions.

*Constables,
or other offi-
cers remiss in
their duty.*

And if any constable or other officer, or master of any house of correction, refuses to apprehend or pass vagabonds, or be otherwise remiss in his duty; or if any persons hinder the execution of this act, or rescue any person apprehended, &c. they shall forfeit not exceeding 5 *l.* nor less than 10 *s.* to the use of the poor, leviable by justices warrant by distress, &c. or for want thereof shall be committed to the house of correction for two months.

*Vagrants
brought from
Ireland or
plantations,
to be re-con-
vey'd.
Penalty on
masters of
ships.*

In case any master of a ship bring into this kingdom from *Ireland*, or the *Plantations*, vagrants or persons like to live by begging, they are to be apprehended by constables, &c. and re-conveyed, at so much a head, as justices in sessions shall appoint; and the masters of ships importing such vagrants, or refusing to transport them, on a justice's order, forfeit 5 *l.* to be levied by distress.

*Persons not
to permit va-
gabonds to
lodge in
barns, &c.*

If any persons shall permit vagabonds to lodge in their houses, barns, &c. and do not apprehend and carry them before a justice, or give notice to some constable, &c. on conviction before two or more justices, they are to forfeit not above 40 *s.* or under 10 *s.* And if any charge be brought on any place, by means of such offence, it shall be levied by distress of their goods, &c. and for want of distress, the offenders may be sent to the house of correction, not exceeding three months.

And

And the statute ordains that lunaticks wandering, shall be apprehended and passed to their place of settlement, &c. but the expence is to be defrayed out of their estates by order of justices, if they have any; and if they have none, the charges may be raised by such ways as money for the poor. Stat.

17 Geo. 2. c. 5.

N. B. All other acts relating to vagrants and vagabonds, are repealed by this act.

Other acts repealed.

Whereas J. B. being about the age of, &c. was apprehended in the parish of, &c. as aforesaid, there wandering and begging, and committing other acts of vagrancy, and brought before me J. S. Esq; one of his majesty's justices of the peace, for the county aforesaid; and upon examination of the said J. B. and of, &c. taken upon oath, it doth appear that the said J. B. was born at, &c. in the county of, &c. and that the said J. B. hath not obtained any legal settlement elsewhere: These are therefore to command and requite you to convey the said J. B. the next direct way to the parish of, &c. and there deliver him to the constable, &c. that being the first town or parish in the next county or precinct, through which he ought to pass to the said parish, of, &c. (or the next house of correction in the said county, &c. and there deliver him to the master thereof,) to be thence conveyed on according to the direction of the late act of parliament, to the said parish of, &c. in the county of, &c. aforesaid. And I do hereby allow the space of three days for his passing to the said parish of, &c. Given, &c.

See the Statute 17 Geo. 2.

*'A receipt
from the
next constable,
on delivery of a
vagrant.*

I, A. B. constable of, &c. in the county of, &c. do hereby acknowledge that I have received this day, &c. of and from C. D. constable of, &c. in the county of, &c. E. F. and G. H. vagrants, by the said C. D. brought hither in their way to, &c. by virtue of a pass granted by, &c. *Witness my hand, &c.*

*Watch.
When to be
set.*

Constables of towns are to cause night-watches to be set from sun-set to sun-rising, with four men or more, (in a city six men at every gate) who must be able persons, inhabitants of the place, and watch by turns. *Stat. Winchester, 13 Ed. 1. c. 4.*

*Refusing to
serve on the
watch.*

Persons refusing to serve on the watch, on complaint to a justice of peace, he may compel them, or bind them to the good behaviour; and some authors are of opinion, that the constable has power to set the party in the stocks for contempt: but this seems rather to be when a watchman appointed is not orderly in the doing of his duty. *Dalt. 240. Cro. Eliz. 204.*

*Watchmen
to apprehend
night-walkers,
&c.*

These watchmen are to apprehend night-walkers, vagabonds, persons going armed, &c. and they may arrest strangers in the night and examine them; and if they find cause of suspicion, secure them till the morning; and whether they be horsemen or footmen, or drivers of cattle, carriages, or that shall carry burdens, the watch may stay them 'till the morning, unless they can render a good account of themselves, their company and carriage, &c. *Dalt. 240.* Constables shall be aiding and assisting to the watch; and the watchmen are to obey their orders in

conveying offenders to the counter, &c. If *Convey them* any will not obey the arrest, the watch may *to the counter.* make hue and cry upon them; and for such *Arrests by the* arrest of a stranger, (especially one suspected) *watch.* none is liable to punishment.

By late statutes, for regulating the watch *Constables* in large parishes of *Westminster*; the constables are twice or oftner in every night to go *parishes of* their rounds, and see that the watch do their *Westminster* duty, and use endeavours to prevent fires, by 10 Geo. 2. murders, robberies, &c. and apprehend malefactors and persons suspected.

And the watchmen shall keep watch and *Watch and* ward from nine a clock at night till seven *ward to be* the next morning, from the 29th of *Septem-* kept, and *ber* to the 30th of *March*, and the rest of the *rogues appre-* year from ten at night till five in the morn- *banded.* ing; and in their courses take up all rogues, vagabonds, and other disturbers of the peace, and deliver them to the constable, &c.

The vestries of each parish, are to appoint *Stands, and* stands for the watch; and what allowances *allowances* shall be made them; also may make orders *for watch,* for their better government. *Stat. 8, 9, & 10 &c.* Geo. 2.

Watch in *London.* See *Constables of London.*

Constables are to be aiding in executing acts *Watermen,* for regulating watermen upon the *Thames*; and levy penalties for offences, &c. *Stat. 2 & 10 Geo. 2.*

Vide Laws concerning Watermen.

There is to be one measure, &c. through- *Weights* out the kingdom. *Magna Chart. 9 H. 3.* and *Measures,*
Every

Common ballance in every town, &c.

Every city, borough and town, is to have a common ballance to weigh goods bought and sold, with common weights seal'd, in the keeping of the head officer or constable there; in default a city forfeits 10*l.* a borough 4*l.* and a town 40*s.* to the king. *Stat. 8 H. 6. c. 5.*

At which all inhabitants may weigh.

At this ballance all the inhabitants of the city, borough, &c. may weigh *gratis*; but foreigners shall, for every draught under forty pounds, pay a farthing; for a draught between forty pounds and a hundred an half-penny; and above a hundred pounds, a penny, &c. *Stat. ibid.*

Common bushel in every market-town, &c. What it shall contain.

In every city, borough, and market-town, shall be a common bushel seal'd, according to the standard, in like manner as a common ballance, on pain as in the statute 8 *H. 6.* And a bushel shall contain eight gallons of wheat, every gallon eight pounds, each pound twelve ounces, and every ounce twenty penny-weights or sterlings. *Stat. 11 H. 6. c. 8. 12 H. 7. c. 5.*

Weights and measures to be sealed, under penalties.

Measures and weights of brass, are to be sent to every city and borough; and mayors or chief officers in cities and boroughs, shall have a special mark for sealing of weights and measures, and take one penny for sealing a bushel, and a half-penny for every other measure, and for every hundred weight a penny, half a hundred a half-penny, every less weight a farthing; and if they refuse or delay to seal them, shall forfeit 40*s.* Sealing any weight or measure not agreeable to the standard; or suffering persons to sell or buy by other measures, &c. incurs a forfeiture of 5*l.* 7 *H. 7. c. 4.*

Mayors,

Mayors, &c. shall view all measures and weights, once a year; break or burn those which are defective, and inflict a penalty of 6s. and 8d. on offenders. *Stat. 11 H. 7 c. 4.* *And viewed by mayors, &c.*

Whosoever shall buy or sell by false weights or measures, shall forfeit 5s. leviabie by distress, &c. by statute 17 Car. 1. c. 19. *Penalties, being false or defective.*

Also an indictment will lie for selling by false weights and measures, it being an offence at common law, as well as by statute.

Constables may search and examine if any persons use other measures than such as are Winchester measure, and agreeable to the standard in the exchequer, and sealed, &c. and if they find any unsealed, they may break them, and present the offenders at the next quarter sessions. *Stat. 22 Car. 2. c. 8.* *Measures to be examined by constables.*

Persons selling corn or salt by any bushel or measure not according to the standard; and struck even with the brim, forfeit 40s. and the corn, &c. *Stat. 22 Car. 2.* *Selling in unlawful measure.*

Bakers selling their bread under weight, &c. *Vide Bakers.*

Constables are to call assistance, by command of justices, and endeavour to preserve ships in danger of a wreck, near the sea-coasts; and officers of men of war, and other ships, are to be aiding, &c. under the penalty of 100 l. *Stat. 12 Ann. c. 18.* *Wrecks.*

No person shall enter any such ship without leave from the commander, constable, &c. Persons carrying away goods from ships in distress, are liable to pay treble value; but the persons assisting shall be allowed a reasonable reward for salvage, &c. *Stat. ibid.* *Goods not to be taken away.*

*Old statute
concerning
wrecks.*

By the statute 3 *Ed. 1.* where a man or any living creature escapes alive out of a ship cast away, the same shall not be adjudged a wreck; but the goods shall be saved and kept by the sheriff a year and a day for the Owner, &c.

*Warrants.
Warrants
when to be
executed.*

A constable is not to dispute a justice of peace's warrant; but is to execute the same with all convenient speed; and if the justice exceeds his authority, (that is, if he grants a warrant to arrest a person for breach of the peace without cause, &c.) the constable is excused; but if a justice issues a warrant to be executed out of his jurisdiction, where he has no authority, and he is not a proper judge, the constable will be punished if he executes it. 14 *H. 8. c. 16.* *Lamb. 67. Dalt. 465.*

*And when
not.*

And it is the same if the constable executes a warrant, that has apparent mistakes in the penalty required to be levied; or out of his precinct. *Dalt. 464.*

*Constables
acting out of
their parishes.*

But it is said if a warrant is directed to a constable by name, commanding him to execute it, tho' he is not compellable to go out of his parish, yet he may if he will, and shall be justified by the warrant in so doing; but if it is directed to all constables generally, and to none in particular by name, there a constable out of the precinct cannot execute it. *Dalt. 1. Salk. 175, 247. Ld Raym. 545.*

A warrant to levy a poor's rate upon *J. S.* was directed to the constable of the parish of *A.* *J. S.* had lands in *A.* upon which he had no chattels, but having a house, and goods therein, in the adjoining parish of *B.* in the same county, the constable levied those goods.

Holt

Holt C. J. held that the goods were well levied. *Ld Raym.* 735. And that a constable may execute a warrant of a justice, &c. out of his liberty, but is not compellable, *ibid.* 736.

If a warrant be general, &c. to bring an offender before the justice who grants it, or any other justice, &c. the constable may carry the party before any magistrate, at his election. *Foster's case*, 5 Co. 59. But where the warrant directs the bringing the party before the justice that granted it, the constable must carry him before that justice, and no other.

A constable or any sworn officer, need not shew his warrant when he comes to serve it; acquainting the person with the contents is sufficient: And if any officer say, *I arrest you in the king's name*, tho' he be no sworn officer, the party must obey at his peril, he having a lawful warrant. If the officer is resisted or assaulted in executing the warrant, he may justify beating and wounding the offender, &c. *9 Co.* 69.

In cases of treason, felony, or breach of the peace, where the king is party, a constable may, by warrant from a justice of peace, break open an house to take a criminal; but he ought first to demand the opening of the doors, and to signify to the person the cause of his coming. *Cromp.* 171.

A constable may not retake an offender after he has arrested him, and let him go upon his promise to return and appear before a justice, by virtue of his first warrant. And if a constable apprehend a person without a warrant, and obtain one afterwards, it is false imprisonment; also if a warrant is granted

Before what justice offenders to be conveyed.

When a warrant to be shewn on arrest. Words of an arrest. Resistance.

Constables power in apprehending felons, &c.

By warrant.

Without a warrant, false imprisonment.

*Arresting
one person
for another.*

against a particular person by name, and he apprehends another of the same name, such taking is wrongful; but if there are two persons of one name, and the same additions, and the constable arrests a wrong person, it is no false imprisonment. *Dyer* 244. *Dalt.* 484.

*What re-
quired to
make a good
warrant.*

A justice's warrant ought to express the cause of its being granted. No justice or justices of peace can make a warrant upon a bare surmise, to break any man's house to search for a felon or stolen goods; there must be a felony actually committed, and sworn to, whereon to ground their warrant. A general warrant to search after felons, &c. hath been held illegal. 2 *Hawk.* 13. but see *Dalt.* 114.

*Contempt to
a justice's
warrant.*

A warrant to search for stolen goods must express whose house is to be searched, for a warrant to search any house or any suspected house, generally is bad, also there should be oath of the suspicion.

If any person throw into the dirt, tread under foot, or shew any other contempt to a justice of peace's lawful warrant, he shall be bound to the good behaviour, and may be indicted and fined. *Cromp.* 149.

*To A. B. constable of the hundred of,
&c.*

*A warrant
to a high
constable,
to issue his
precept to
petty constables,
to make presentment of offences at the quarter-sessions.*

Berks, ff. **T**HESE are in his majesty's name, to command you to issue your precepts to the several petty constables in all and every the precincts within your

presentment of offences at the quarter-sessions.

your hundred, requiring them to make true and faithful presentment at the next general quarter-sessions of the peace to be holden for this county, at, &c. on, &c. of all and every the offences committed in their several limits, which they are by their oaths oblig'd to inquire into, viz. affrays, bloodsheds, &c. (*Here set forth the particulars*) and that you do then and there appear at the said general quarter-sessions, to make return of this warrant, and do herein, as the acts of parliament direct. Hereof fail not at your peril. Given under our hands this day, &c. Anno Dom', &c.

Berks, ff. **B**Y virtue of a warrant to me *The high constable's pre-* directed from *A. B. C. D. &c.* Esq; justices of peace for the county aforesaid; *cept to petty* These are to charge and require you to make *constables to* your personal appearance at the general quarter-sessions of the peace, to be holden at, &c. *make such* on, &c. next, for this county, and bring with you thither, fairly written, all your presentments of treasons, felonies, murders, robberies, thefts, riots, routs, bloodsheds, rescues, hues and cries not prosecuted, gaming-houses, drunkenness, forestallers, cottages erected against the statute, bridges and highways out of repair, common nufances, bawdy-houses, disturbers of the peace, alehouse-keepers unlicensed, and disorders in alehouses, false weights and measures, watches and wards not kept, and generally all manner of trespasses and offences whatsoever, inquirable by you, and committed within your precincts, to the end the offenders may be proceeded against according to law. Given under my hand, &c.

See the form of *presentment of constables*, under Title *Presentment*.

The high constable's warrant to make a private search.

BY virtue of a warrant to me directed from *A. B.* and *C. D.* Esq; two of his majesty's justices of the peace for this county, acting within the hundred, &c. aforesaid; *These* are to command you to make diligent search and inquiry within your precincts, upon *Monday* next in the night-time, after rogues, vagabonds, and sturdy beggars, and all such persons as are suspected to keep bawdy-houses, and the frequenters thereof, and also all disturbers of the peace, &c. and to apprehend them, and bring them before, &c. upon *Tuesday* next by ten of the clock in the forenoon, to be dealt with according to law. Hereof fail not. Dated, &c.

A high constable's precept to petty constables, to prepare lists of jurors.

BY virtue of a warrant from, &c. justices of peace, at the general quarter-sessions held for the county aforesaid, at, &c. on, &c. last past: *These* are to require you to make and prepare a sufficient list of persons qualified to serve on juries, viz. of the names and places of habitation of persons between the age of twenty-one and seventy, having 80*l.* per Ann. to serve on the grand jury; and of those as have 10*l.* per Ann. freehold, to serve on the petty jury, (aliens, infants, attornies, apothecaries, clergymen, conspirators, or persons attainted excepted,) and that you do make a return of the said list at the next general quarter-sessions (*Michaelmas*) to be held for this county. Given, &c.

By

Middlesex. **B**Y virtue of a warrant to me *A warrant* directed by his majesty's ju- *from a high* stices of the peace assembled at the general *constable to* quarter-sessions held, &c. for this county; I *a petty con-* do hereby require you to levy of all and every *stable to levy* the inhabitants in your parish, the sum of, &c. *gaol-money.* towards the reparation of the county-gaol, which said sum is thought fit by the justices aforesaid, to be raised in your parish, by an equal taxation; and if any person shall refuse to pay his or their parts of the said tax, four days after demanded, that then you do levy the same by distress and sale, &c. within a further space of four days, returning the over-plus, after deducting the charges of the distress, to the owner. *Given, &c.*

See the new statutes 12 G. 2. c. 29. 13 G. 2. c. 18.

Berks. **B**Y virtue of a warrant to me di- *High con-* rected by his majesty's justices of *stable's war-* peace, &c. (*ut supra*) These are to require *rant to levy* you to levy the sum of, &c. of all and every *money for re-* the inhabitants in your parish, by an equal *pair of* assessment, towards the repairs of the county *bridges.* bridges; and that you do pay the same to me on, &c. next at, &c. in order to my carry- ing and accounting for the same to the quarter-sessions. *Given, &c.*

R Eceived this day, &c. of A. B. high con- *A receipt for* stable of the hundred of, &c. the sum *money for* of, &c. for conveying C. D. a vagrant to the *passing va-* town of, &c. being the sum ascertained in the *grants.* justice's certificate within mentioned. *Witness* my hand, this, &c.

E. F. petty constable of, &c.

F 4

Where

Where there are different tithings, hundreds and counties, there must be different constables, although in the same parish, and they must account for their offices before other justices, &c. But though a parish be in several counties, the authority of church-wardens is the same in every part of it, as if all were in one county; for they must follow the ecclesiastical jurisdiction, which is into dioceses, archdeaconries, &c.

If an action be brought against a constable, church-warden, &c. for any thing done in the execution of their offices, they may in all cases plead the general issue, and give the special matter in evidence; and if the plaintiff is nonsuited, discontinued, or a verdict be for the defendant, he shall have double costs. *Stat. 7 Jac. 1. c. 5. 21 Jac. c. 12. Cro. Car. 175. 1 Jones 248.*

OF
CHURCH-WARDENS
AND
OVERSEERS
OF THE
POOR,

Their Duties and Offices, &c.
in all Cases.

Church-wardens are very antient officers, *Church-war-*
and by the common law they are in *dens a corpo-*
the nature of a corporation to take *ration.*
care of the goods of the church; the proper-
ty whereof is in them; but they have nothing
to do with the lands. 1 *Inst.* 3. a. *Kelw.* 42.
Duke's Char. Uses 42.

They are elected, by the canon 1 *Jac.* 1. *How elected.*
by the minister and parishioners, or by their
joint consent, in *Easter* week, yearly; and
if they happen to disagree, then the minister
is to chuse one, and the parishioners another;

unless there be a custom to the contrary, which must be observed. 2 *Rol. Abr.* 287. *Noy* 31, 139.

*And sworn
in their of-
fice.*

When a church-warden is chosen by virtue of any particular custom, the archdeacon is to swear him, though the election be against the canon; and if he refuses, a *Mandamus* lies to compel him. 3 *Cro.* 551.

*Temporal of-
ficers.*

An arch-deacon refusing one that is chosen, and appointing another against the consent of the parish, the court of king's bench will issue out a special writ to the bishop to swear him; and a church-warden being a temporal officer intrusted with the parish goods, the parishioners may chuse and put in trust whom they think fit. 1 *Vent.* 266.

The oath of
a church-
warden.

You shall swear truly and faithfully to execute the office of a church-warden within your parish, according to the best of your skill and knowledge; and present such things and persons as to your knowledge are presentable, by the ecclesiastical laws of this realm.

So help you God.

*Refusing to
take the oath.*

The office of church-wardens continues 'till new church-wardens are sworn; and if they refuse to take the oath as the law directs, being duly elected, they may be excommunicated. Before the church-wardens are sworn, they can do no legal act as church-wardens, nor have they any authority, but whatever they do is of their own wrong. *Can.* 89.

Peers.

Peers of the realm, members of the house of commons, attornies and officers of the superior courts at *Westminster*, clergymen, physicians and surgeons in the city and suburbs

of London. Stat. 5 H. 8. c. 6. 32 H. 8. c. 40. Apothecaries, and every person, who has prosecuted any felon to conviction, or the assignee of the certificate given to such person, pursuant to the Stat. 10 & 11 W. 3. c. 3. is excused from this and all other parish offices.

Teachers of dissenting congregations, re- *Persons ex-*
gistered seamen, though not in actual service, *cused from*
&c. are privileged and exempted from being *serving.*
church-wardens, by divers statutes. If a dis- *Dissenters*
senter be elected church-warden, he may ex- *how to act.*
cute the office by sufficient deputy, who will comply with the Laws. 2 Roll. Abr. 272.

Besides the care of the repairs of the church, seats, &c. which I shall mention hereafter; church-wardens are to see that the Parishioners come to church every Sunday, and to present the names of such who absent, to the ordinary; or levy 1 s. for every offence. Stat. 1 Eliz. c. 1. *Church-war-*
dens to see
persons come
to church.

They are not to permit any to stand idle, walk or talk in the church or church-yard; to take care that no persons sit in the church with their hats on, or in any other indecent manner; but that they behave themselves orderly, soberly, and reverently, kneeling at the prayers, and standing at the belief, &c. that none contend about places, and they may chastise disorderly boys, &c. Can. 18, and 111. *Persons not*
to talk idly
at church, &c.

The church-wardens shall suffer no man to preach within their churches or chapels, without producing their Licence; and take care that all persons excommunicated be kept out of the church, Can. 50, 85. and to see that peace be duly kept in the congregation. *To see that*
ministers be
licensed.

All

*Quarrelling
in the church,
&c. how
punish'd.*

All quarrelling is prohibited either in the church or church-yard; and if any offend in such case, the ordinary may suspend him from entering the church, &c. Where one is assaulted and beaten in the church, it is not lawful to return blows in his own defence; for striking or laying hands on another there, the offender shall be excommunicated. 5 & 6 Ed. 6. c. 4. 2 Cro. 462, 366. *Noy* 104.

To apprehend Disturbers of the minister and congregation.

They are to apprehend those who interrupt or disturb the minister, and bring them before a justice of peace, &c. any person disturbing the minister, by *Stat. 2 & 3 Ed. 6.* is liable to a penalty of 10*l.* and three months imprisonment; for the second offence to forfeit 20*l.* or suffer six months imprisonment; and for the third offence, shall forfeit all goods and chattels, and be imprison'd during life. By 1 *Eliz. c. 1.* to forfeit an hundred marks, &c. And by 1 *W. & M.* to disturb a congregation, misuse a teacher, &c. incurs a forfeiture of 20*l.*

Search ale-houses on Sundays.

Church-wardens, &c. shall see that the Lord's-day be duly observed; search ale-houses on *Sundays*; and if they find any persons therein, during divine service, they are to make them pay 3*s.* 4*d.* and also 1*s.* for being absent from church; and the master of the house shall forfeit 10*s.* &c. *Stat. 1 Jac. 1. cap. 9.*

Profaners of the Lord's day.

They are to execute warrants against such who profane the Lord's day; and levy the forfeiture of 1*s.* &c. on those who curse or swear, by warrant from a justice, &c.

Persons doing any worldly labour on a *Sunday*, forfeit 5*s.* butchers killing or selling meat, carriers travelling, &c. See *Constables.*

Church-

Church-wardens are to keep the keys of the belfry, and take care that the bells be not rung without good cause, to be allowed of by the minister and themselves. *Can. 88.*

And they are to make presentment upon oath, (usually twice a year) especially at the visitation of the bishop, of the several articles following, viz. whether there be a box for alms in the church; the bells and bell-ropes are in repair; there be a bible, common-prayer book, and book of Canons; a desk for the reader, cushion for the pulpit and a surplice; a communion-table, tablecloth, cups and covers for bread, flaggons and font; a carper, a register-book and chest with three locks; the king's arms set up, grave-stones and monuments well kept; Lord's-prayer, creed and commandments in fair letters; the church-yard well fenced, church and chancel and parsonage-house in repair, &c.

Whether the parson reads the thirty-nine articles twice a year, and the canons once a year, preaches every Sunday good doctrine, reads the Common-Prayer, celebrates the Sacrament, reads the Homilies, observes the 30th of January, the 29th of May, and the 5th of November; preaches in his Gown, wears a surplice, visits the sick, buries the dead, catechises children, baptises with god-fathers, marries according to law, and lives a sober life.

N. B. Parsons resident on livings not reading the Common-Prayer once a month, forfeit 5*l.* 13*§* 14 *Car.* 2. And marrying persons without publishing the banns or licence, they shall forfeit 100*l.* the persons married 10*l.* and Clerks assisting 5*l.*

7 & 8 W. 3. In every parish there shall be a parish register, of christnings, marriages, and burials, subscribed by the minister and church-wardens; and the names of the persons are to be transmitted yearly to the bishop, &c.

Things relating to the parishioners.

If any one of the parishioners are adulterers, fornicators, drunkards, swearers, blasphemers, haunters of alehouses, &c. in time of divine service, work on *Sundays*, not repair to church, alms-houses or schools abused, legacies given to pious uses, baptism neglected, women not coming to be church-ed, marrying in prohibited degrees, (of which there is to be a table.) marrying without banns, licence, or at unlawful hours, if sacraments received three times a year of all above sixteen; seats, if parishioners are placed in them without contention, &c. and if they refuse to make presentment, the parson and vicar may present.

Presentments of things given in charge.

By the 117th canon, church-wardens are to make their presentments of such things which are given in charge at the visitation; but not oftner than once a year, where it hath been no oftner used; nor above twice in any diocese whatsoever, except it be at the bishop's visitation: The general time of making presentments is at *Easter*.

Not to be made out of malice.

And as at the common law, inquiry is to be made of offences by juries; so by the ecclesiastical laws, inquest shall be made by church-wardens, &c. But the presentment which they make must not be with a malicious design to vex the people; for if so, an action on the case lies against them. *Cro. Car.* 285.

The church-wardens, with the consent of *Seats, persons* the minister, have the placing of the pari-plac'd in. shioners in the seats of the body of the church, appointing pew-keepers, &c. reserving to the ordinary a power to correct the same: And in *London* the church-wardens have this authority in themselves by custom.

Church-wardens are to repair the seats in *To repair* the church, and dispose thereof; but this is *seats, and* in subordination to the bishop of the diocese, *when dispose* who ought of common right to place or dis- *of places.* place such as shall fit therein, unless custom or prescription interposeth; there his jurisdiction ceaseth, and the temporal courts give remedy in case of disturbance, &c. 12 Co. 105. 3 *Inst.* 202.

But church-wardens may not prescribe for *Appoint pew-* a right, (though they have generally the *keepers, &c.* disposition of seats, appointing gallery-keepers, &c. except in cathedrals) for the ordinary's desisting from acting; they being only a corporation capable of goods, and not of inheritance.

If there be a custom in a parish, that the *Church-ward-* church-wardens are to repair the old seats, *dens to repair* and erect new ones, and to appoint who shall *and dispose of* sit in them; and they do erect a new seat in *seats.* the body of the church, and appoint a certain person to sit there; and, after the ordinary, decree that another shall have the seat: In this case a prohibition lies against him, for the custom hath fixed the power of dis- *By custom.* posing the seats in the church-wardens. *Rol.* *Abr.* 288.

The grant of the seat to one and his heirs *Grants of* is not good. The church-wardens of *D.* by *seats not good.* virtue of their custom disposed of a seat to
one;

one; and the ordinary granted the same seat to another and his heirs; whereupon a prohibition was granted.

Body of the church.

By the common law, the church and church-yard are the freehold of the parson; but the use of the body of the church, and the repairs thereof, common to all the parishioners.

Family seats, repairs give the title.

A man may have a seat in a church appendant to his house or estate, and prescribe that he and his ancestors, or those whose estate he hath, usually sat there and repaired the seat; but one cannot prescribe to a seat in the body of the church generally, without shewing that he, and all those he claims from, have time out of mind repaired it. For the body of the church and the repair and maintenance of it is common to all the parishioners; and for avoiding confusion the distribution and disposing of seats, and the charges of repairing, belongs to the ordinary. *Hob. 69. Roll. Abr. par. 2. 288.*

Seat in the chancel.

The right to the upper place in a seat belongs not to the ecclesiastical court to determine; and it is claimable by prescription as well as the seat itself. *Noy 78. Latch 116.*

A parson impropriate, and consequently his farmer, ought to have the chief place in the chancel because he repairs it; but by prescription a parishioner may have it. *Noy 133.*

If one and his ancestors have time out of mind repaired the isle, and sat and buried there, that makes it proper to him and his family; sitting there only does not, but the ordinary may appoint who shall sit there. *Noy 104. Cro. Jac. 366.*

Isles peculiar to families.

The case is the same in an isle of a church: For a prescription for a man to sit there

there with his family, and repair it, makes the isle peculiar to his house, and he cannot be displaced by any body. *Cro. 367.* And the ordinary, &c. hath no power over seats in private chapels, belonging to particular families. *Roll. Abr.*

But if a man erect a pew in a church; or hang up a bell in a steeple, they thereby become church-goods, (though they are not expressly given to the church) and he may not afterwards remove them; if he does, the church-wardens may sue him. *Stat. 10 H. 4.*

Church-wardens are to see that the body of the church and steeple are in repair; but the chancel is to be repaired by the parson: And the church-wardens are not bound to repair any part of the church or isle which any man claims by prescription to him or his house. Antiently both the church and church-yard were repaired out of the revenues of the church, and a fourth part of them was appropriated for that purpose.

A man, who has lands in a parish in his own occupation, is chargeable to the repairs of the church, though he dwells in another parish. *5 Rep. 66. Cro. Eliz. 659, 843.*

The gates, stiles and doors leading into the church-yard, and the ways therein, are to be kept in due repair by the church-wardens: And church-ways must be broad enough, not only for the passage of single persons, but for carrying of a corpse through the same to be buried, as often as there shall be occasion; and the stiles are to be so made, that persons of all ages may be well able to go over them: But if any one hath a private door to the church, or a way through the church-yard, (which may not be made without the

Erecting

pews, hanging up bells, &c.

Churchwardens duty in repairing the church.

Church-yards gates, doors, ways, &c.

and how repaired.

consent

Church-wardens and

consent of the minister, and a faculty from the bishop) they must be repaired by him who hath the use of them. Inhabitants may prescribe to have a way through a church-yard, in respect of a messuage or land adjoining; they and their ancestors having always had and repaired the same. 2 *Roll. Abr.* 265.

Particular repairs.

Church reparations extend particularly to church-yard walls, the walls of the church and steeple, the floor, the pulpit, and the pews, windows, iron bars and glass; the roof of timber, with laths, nails, &c. the covering of lead, tiles, &c. the doors with locks and keys; stairs, bells, wheels and ropes in the steeple. *Can.* 85.

Church ornaments what.

And parishioners are chargeable for the repairs of ornaments of the church: The communion table and coverings, the communion cups, bible and other books appointed to be kept in churches, the surplice, pulpit-cloth and cushion are accounted church ornaments.

Sexton's wages, &c.

The expence of all these, the sexton's wages, washing the communion clothes, candles and money disbursed by the church-wardens, are to be raised by a rate or tax.

Rates made by church-wardens, &c. for repairs.

These rates are to be made by the church-wardens, and the greater part of the parishioners present, after a general notice given. 1 *Vent.* 367.

And some of our law books tell us, that if the parishioners (upon publick notice given them) do not assemble, the church-wardens and overseers of the poor, or the greater part of them, may make a rate, and levy it upon the inhabitants; it being first confirmed by

by the ordinary or archdeacon. 2 *Inst.*

489.

The charge is in respect of the lands; *Persons* and therefore if the owner lives in another *chargeable* parish, he shall be rated to repairs in the pa-*thereto.* rish where the lands lie, unless he let the same by lease; and then he shall be charged in respect of the rent reserved; and in such case, if the lessee or farmer is sued for repairs, he may plead it, and the court will order the tax to be divided between the landlord and him, *viz.* That the tenant shall contribute in proportion to the rent reserved, and the landlord for so much as the land is worth above the rent. 2 *Roll. Rep.*

270.

As to this being a real charge upon all the *Repairs a* lands in the parish, or only upon the persons *charge on* in respect of their lands; the better opinion *persons in re-* is, that 'tis a personal charge, by reason of *spect of lands.* the lands. For where the owner or occupier refuses to contribute, the lands cannot be sequestred; but the persons may be excommunicated by the ordinary: Also two justices, (one of the *Quorum*) may make their *Justices* warrant to the church-wardens, to levy by *power to* distress all sums in arrear of those who refuse *levy money* to contribute according to assessment; and in *assessed.* default of distress, commit them to gaol till payment. A man shall be charged for the repairs of the church where his lands are; because to this purpose he is a parishioner there, though he live in another parish. *Co.* *Eliz.* 659. 2 *Roll. Abr.* 289. *Dalt.* 155. 2 *Mod.* 255.

The reparations are to be done by the church-wardens, at the charge of all the parishioners of ability; and the ecclesiastical judge

Power of spiritual court in repairs and rates.

judge may excommunicate them, for any neglect in not repairing. The spiritual court hath original jurisdiction of repairs of churches, and of rates for the same; and when a suit is brought in that court against a person for his proportionable part of such rate, he may be compelled to put in his answer upon oath, whether he hath paid or not. 1 *Mod.* 194. 1 *Vent.* 339.

Major part of parish may make a rate to rebuild the church.

If a church is so much out of repair, that 'tis necessary to pull it down, in such case upon a general warning to the parishioners, having first obtained the consent of the ordinary, the major part meeting may make a rate for pulling down the church, and rebuilding it on the old foundation, making vaults, &c. and it shall be good: Also it hath been held, that if a parish be increased, the greater part of the parishioners, with consent of the bishop, have power to raise a tax for the necessary enlarging of the church. 2 *Mod.* 222. 1 *Mod.* 237. 1 *Salk.* 165.

Parishioners power in making rates.

The majority of parishioners may make rate for altering the place of the communion-table, and carrying it into the chancel; or for raising steps to go up to it, and oblige the whole parish, for they are compellable to put things in decent order, and they can best judge of the rules of decency: But the majority cannot make a rate to bind the rest for repairing or adorning the chancel; because that is the parson's freehold. If the church-wardens would set up a new seat, make a new gallery, &c. where there was none before, they must have the consent of the major part of the parish, and licence of the ordinary. And though church-

Church-wardens to consult vestries.

church wardens may repair the church, &c. without consulting the vestry; in chargeable repairs, it is safe to have the advice of their neighbours, who are to bear the charges of them. 5 Co. 66, 67. Popb. 137. 1 Mod. 236.

A person living in one parish, and occupying lands in another, shall not be charged for repairs of ornaments only of the church where the lands lie; because the inhabitants are to be charged for ornaments in respect of their personal estates. 2 Roll. Abr. 291.

For church ornaments, the charge is upon the personal estate of the parishioners, and not upon their lands; so that if a rate is made to charge the land, a prohibition will be granted: But by custom, lands, &c. may be liable to it. 2 Roll. Rep. 292. Cro. Eliz. 843. 2 Lutw. 1019.

Brentford. A Rate or assessment of six-pence in the pound, made the day of — in the year of our lord 1742. upon the inhabitants of the parish of B. aforesaid, towards defraying the necessary expenses and disbursements that have been laid out and expended in and about the parish-church, and ornaments thereof; and also the church-yard, by us whose names are hereunder written,

E. K.	}	Church-wardens.
L. M.		
N. O.		
P. R.	}	Overseers of the poor.
J. L.		
A. M.		
T. S.	}	&c. Inhabitants or parishioners.
W. Y.		

A. B.

Church-wardens and

A. B. for one messuage,	o	12	6
C. D. for one tenement, &c.	o	10	0
E. F. for his lands called, &c.	o	9	6
G. H. for one tenement called, } &c.	o	11	0
M. E. for, &c.			

Note; After the rate or collecting book is made and sign'd as above, it is to be confirmed by the ordinary.

To the church-wardens of the parish of, &c.

A warrant to distrain for a church rate. *Midd. ss.* **W** Hereas complaint hath been made unto us, by J. K. and L. M. of, &c. church-wardens of the said parish, that C. D. E. F. &c. have refused or neglected to pay the sums of money by legal assisment rated on them, for and towards the reparation of the parish church of, &c. aforesaid, viz. the said C. D. the sum of, &c. and the said E. F. &c. These are therefore in his majesty's name to command you, that you, or any of you, do levy the said several and respective sums of, &c. by distress and sale of the goods of the said C. D. and E. F. respectively, rendring to them the overplus, if any be, after the said several sums and the charges of the distress deducted; and in case there be no goods, whereof a sufficient distress may be taken, that then you do certify the same to us, that such further proceedings may be had as to justice appertains. *Given, &c.*

Houses

Houses as well as lands, are chargeable to *Unequal* these rates. And if a parish is unequally *rates, remedy.* rated, those who are grieved must plead it in the spiritual court, being sued there; but they cannot have a prohibition. *2 Roll. Abr. 291.*

A man living in one parish, and holding *New casting* land in another, may be taxed towards the *of bells, for* new casting of the bells of the parish where *taxes.* his lands are; for as they are necessary to the people, they are more than ornaments.

A man had a lease of a stall in a market- *Persons not* town, where he sold goods once a week, *chargeable* but lived in another parish; adjudged not *for repairs.* chargeable in the market-town. *2 Roll. 288.*

Persons of a chapelry, having always chri- *Chapelry,* stened and buried within themselves, may pre- *repairs of.* scribe to be exempt from repairing the mother-church: But if there be a chapel of ease where they hear divine service, and they bury at another church, they must contribute to the repairs of that church, notwithstanding they repair the chapel.

No church new built is esteemed as such in *Repairs of* law till consecration; which being done, the *new chur-* parishioners are then to repair it: But nei- *ches, &c.* ther the ordinary nor church-wardens can give leave to bury there, but the parson on- *Burials.* ly; the freehold of the soil being in him. *1 Cro. 367.*

If a question should arise, whether 'tis a *Sacraments* church or chapel belonging to the mother- *and burial,* church, and any proof can be made that sa- *church.* craments have been administred and the dead buried, then 'tis by the law accounted a distinct church.

Though the freehold of the church and *Right of* church-yard be in the parson; yet as he can *burial.* hinder

hinder no parishioner from having a place in the body of the church, so he may not hinder any such from being buried in the church-yard; but for burying in the church, it is otherwise, 2 Cro. 366.

Fees for breaking ground.

The fee for breaking the soil on burials, belongs to them upon whom the burden is of repairing the pavement; that is, to the parson for the chancel, and to the church-wardens for the body of the church. 3 Keb. 504. 1 Vent. 274.

Robbing persons in the grave.

A man may be indicted at sessions for digging up the graves of persons buried, and taking away their burial dresses, &c. afterwards interring their bodies again: And by Co. Litt. 113. it was resolved in this case, that the property of the winding sheets remained in the person who was the owner when used; and an offender was found guilty of felony, but had his clergy. *Hain's case.*

Fighting in the church.

If any person shall draw a weapon in the church with an intent to strike, or a stroke shall be given, the party may be indicted, and have judgment to lose one of his ears. Stat. 5 & 6 Ed. 6. c. 4.

Arresting persons going to church.

And if any person shall arrest a minister or a lay-man going to or returning from church on a Sunday, he may be punished by indictment.

Churchwardens power in respect to goods, defacing tombs, &c. Organs.

But to return to church-wardens: They may maintain an action for defacing a monument in the church. Godb. 279. And so may an heir by descent, have an action against any one who beats down or defaces coats of arms, &c. of his ancestor in the church or church-yard. 2 Cro. 367.

If the organs be taken out of the church, the church-wardens may bring an action of trespass.

trespass, tho' the vicar took them; because they belong to the parishioners, and not to the parson: Adjudged *Trin. 12 Jac. 1.*

But if any thing belonging to the freehold *Freehold in* be broken or cut down, the walls, windows, *the parson.* doors or trees in the church-yard, &c. the parson or vicar, and not the church-wardens, shall have an action. *Stat. 8 H. 6.* The soil and feed of the church-yard are the minister's, and the trees growing therein; but he is not to cut them down, unless for repairs of the chancel, &c. though he may top them. *35 Ed. 1.*

Church-wardens are a corporation only as *Church-wardens may purchase goods,* to moveable goods, for the use of the church, *chafe goods,* and they may purchase such goods and chattels; *&c.* and also sue or be sued for or concerning such goods, but for the use of the parish. *1 Roll. Abr. 393.*

For they cannot prescribe by the name of *But not* church-wardens to have lands, &c. (except *lands.* it be in *London:*) Neither can they have any action at common law to recover goods, money given, &c. of which they were never possessed: But if they had possession, then they may bring an action and recover damages to the use of the parish, if such goods are taken away and abused: And they may recover goods by bill in equity which they never had possession of; but they cannot sell or dispose of them without the assent of the parish; if they do, the parishioners may chuse new officers, who may bring action of account against them. *Coke's Rep. 3. par. Hadman's Case.*

In the city of *London,* by special custom, *By custom in* the church-wardens with the minister make a *London they* corporation for lands as well as for goods; and *may take* *G* *may lands, &c.*

Church-wardens and

may as such, hold, purchase and take lands for the use of the church, and sue and be sued on account thereof. And there is another custom in *London*, for the parishioners to chuse both church-wardens, exclusive of the minister; who is also there excused from repairing the chancel of the church. 2 *Cro.* 325. 1 *Co. Inst.* 3. 1 *Roll. Abr.* 339.

To fix fire-cocks, &c.

Church-wardens of every parish within the weekly bills of mortality, shall, at the charge of their respective parishes, fix upon the pipes belonging to the water-works, stop-blocks and fire-cocks; and make a mark on the front of any house over against them to find them, where an instrument is to be kept to open the plug when any fire happens. *Stat. 6 Ann. c. 31.*

Keep engines, &c. in repair, or forfeit 10l.

And in each parish is to be kept a large engine, and a hand-engine, and a leather pipe and socket of the same size as the plug or fire-cock, under the penalty of 10*l.* to be levied by warrant of two justices by distress and sale of the goods of the church-wardens; one moiety to go to the informer, and the other to the poor. *Stat. ibid.*

Reward to persons bringing engines, &c.

The first person who brings in a parish engine, or any other large engine with a socket, &c. when any fire happens, shall be paid as an encouragement 30*s.* the person who brings in the second parish-engine, shall be paid 20*s.* the third 10*s.* and the turn-cock, whose water shall first come into the main-pipe, is to have 10*s.* paid by the church-wardens, or the same shall be levied by distress, &c. *Stat. 7 Ann. c. 17.*

Assess the monies, &c.

And the church-wardens and overseers of poor may make rates and assessments for money for the maintenance and repairs of engines, stop-

stop-blocks, &c. as they do for the maintenance of the poor, &c. *Stat. ibid.*

Church-wardens are to account at the end of the year, and deliver what remains in their hands to their successors, by writing indented; and if they refuse, they may be presented at the next visitation, or the new church-wardens may have an action against them at common law: But they shall be allowed all necessary disbursements. And if they have not gathered their rates, they are to prosecute persons before they leave their office; present them in their last presentment, or pass over their arrears to their successors, who shall recover the same for them. *Can. 88, 89, 109. 1 Roll. Abr. 121.*

When church-wardens receipts fall short of their disbursements, the succeeding church-wardens ought to pay them the ballance, and place it to their account, by the *Canon 88.* At the same time that the church-wardens pass their accounts of all money received and expended during their office, they must also give an account of the church goods committed to their charge, which shall be then brought forth, call'd over and examin'd, and after that deliver'd over to the successors, together with the keys of the parish chest, &c.

If any dispute arise about the account, it is to be decided before the ordinary: And for disbursement of any sum not exceeding 40 s. the church-wardens oath alone is sufficient proof; but for all sums above 40 s. receipts must be produced, &c. No allowance of account can discharge church-wardens of any fraudulent dealings, which they may have been guilty of in their office; but whenever any such are detected, they are accountable, and

Church-wardens and

every parishioner hath a right to claim justice against them. And though all the parish have allowed accounts of the church goods, the ordinary may call them to account before him too, and punish them if he find cause; but in laying out money, they are punishable for fraud only, not indiscretion. *2 Roll. Abr. 120.*

Church-wardens power in a vacancy of the benefice.

Church-wardens have the care of the benefice during its vacancy; and as soon as there shall be any avoidance, they are to apply to the chancellor of the diocese for a sequestration; and having taken out an instrument for it, they are to manage all the profits and expences of the benefice for him that shall next succeed: Plow and sow his glebes, take in the crop, gather in tithes, thresh out and sell corn, repair houses, fences, &c. but not commit waste upon the living, in cutting timber, &c. And they are to take care, that during the vacancy, the church be duly served by a curate approved by the bishop, whom they are to pay out of the profits of the benefice. *2 Co. Inst. 89.*

Doing waste, &c. may be chang'd.

If church wardens through improvidence, indiscretion or negligence, waste the church goods in their custody, or much damnify the parish, on proof thereof, they may be removed at any time, by the authority of the ordinary. *8 El. 4, 6. 13 Co. 70.*

To join with constables, overseers of the poor, &c.

They are to join with constables in making rates for relief of poor prisoners, maimed soldiers, &c. and in chusing surveyors of the highways, appointing days to work, &c. and they must join with overseers of the poor in the execution of their whole office.

Of Sidesmen (Synodsmen) or Questmen.

Sidesmen are those officers that are yearly chosen in great parishes, in *London* and other cities, to assist the church-wardens in making inquests and presentments of such offences and offenders to the ordinary in his episcopal *synod*, as are punishable in the spiritual court.

Sidesmen assistants to church-wardens.

These sidesmen shall be chosen in *Easter* week by the minister and parishioners; or if they cannot agree, shall be appointed by the ordinary; and take an *oath* that they will assist the church-wardens in the execution of their office, so far as by law they are bound.

How chosen and appointed.

They are diligently to see that all the parishioners duly resort to the church upon all *Sundays* and *Holidays*, and there continue during the whole time of divine service, &c. And all such as shall be found negligent in resorting to the church, they shall call upon, and after due admonition, present them to the ordinary of the place. *Can. 90.*

Their duty in making presentments of offences, &c.

No church-wardens, sidesmen or questmen, shall be cited or call'd but only at the times limited and appointed to appear in the ecclesiastical court, for refusing to present any faults or offences committed in their parishes at other times; nor be farther troubled after their presentments delivered at the usual time, unless it appear that they have wilfully omitted for favour, &c. to present some notorious public crime or crimes; or upon just cause to call them in order to explain their former presentments, &c. But in case of any wil-

Not to be cited by bishops, but at usual times.

Unless for negligence.

Church-wardens and

full omission of their duty, the ordinary may proceed against them for breach of oath, as in cases for wilful perjury. *Can. 117.*

To the constables, church-wardens, sidesmen, and overseers of the poor of the parish of, &c.

A warrant
against fab-
bath break-
ers.

Midd. ss. **W** Hereas we *A. B.* and *C. D.* Esq; two of his majesty's justices of peace for, &c. have been informed, that the Lord's day is often prophaned in your parish by disorderly meetings of several idle persons, and by gaming, sports, and tipling in public houses and shops, and by persons using their trades and callings on that day contrary to the laws in that case made and provided; which disorderly and unlawful proceedings tend to the encouragement of vice, lewdness, and immorality, to the great dishonour of GOD, disturbance of the inhabitants, and evil example to others: These are therefore in his majesty's name to require you, and every of you, to make strict and diligent search throughout your said parish, on the next Lord's day, being the, &c. for all such persons offending as aforesaid; and that you take a true account of all and every the persons offending in the premisses, to the end the same may be returned by you upon oath unto us at a petty sessions to be held at, &c. on, &c. in order to inflict such penalties upon them as the law in that case requires; and herein you are not to fail. *Given under our hands, &c.*

Of briefs, and their management.

The statute 4 & 5 Ann. c. 14. enacts, *Briefs to be indorsed the time of receiving, &c.*
That when copies or briefs are delivered to the wardens of churches and chapels, &c. immediately after receipt, they are to indorse the time of receiving, with their names thereon, and forthwith deliver them over to the ministers and curates, who shall likewise indorse the time of their receipt, and their names, in like manner as the church-wardens.

The ministers, curates and preachers, on some Sunday, in two months after receipt thereof, are immediately before preaching openly to read such briefs in their respective places of meeting; and the church-wardens shall collect the money that shall be given there, or go from house to house, &c. *Read, and money collected.*

The sums collected, place and time, are to be indorsed in words at length, and signed by the minister, curate, and church-wardens, and by the teacher and two substantial persons of separate congregations: And the briefs indorsed, and money collected shall be delivered to the persons undertaking the brief, under the penalty of 20*l.* The undertakers not demanding the briefs and money, in six months, are liable to the same penalty. *Sums to be indorsed. Penalties.*

If the whole number of briefs be not returned, the undertaker for every copy wanting, shall forfeit 50*l.* unless he make sufficient proof in chancery of the briefs being lost by inevitable accidents, and of the money collected thereupon. And a register is to be kept of all monies collected, inserting the *And briefs returned. Register to be kept.*

occasion of the brief, and the time when collected; to which all persons may have a free resort.

How money accounted for.

The undertakers in two months after the receipts of the money, and notice to sufferers, are to account before a master in chancery, to be appointed before the lord chancellor.

Briefs not to be farmed.

All farming and purchasing such charity-money is declared unlawful; and deeds of covenant and ageement concerning the same shall be void: And any person agreeing to purchase the benefit of such brief, shall forfeit 500*l.* for the benefit of the sufferers.

Penalty.

Of parochial libraries.

Libraries to be preserv'd.

By a statute made 7 *Ann. c. 4.* it is enacted, that libraries erected in parishes shall be preserv'd for the uses directed by the founders.

Catalogues taken of books.

And where a parochial library is appropriated to the use of the incumbent, he must within six months after his induction, make a catalogue of all books in the library, and sign the same, acknowledging the possession of such books, which catalogue is to be deliver'd to the ordinary.

Books to be lock'd up, and not alienable.

And upon the death of an incumbent, the library shall be lock'd up by the church-wardens, or a person appointed by the proper ordinary; none of the books shall be alienable, without the consent of the ordinary, and then only when there is a duplicate of such books. And if any book shall be taken away or detained, a justice of peace may grant his warrant to search for the same, and order it to be restored.

If taken away, remedy.

Also

Also action of trover may be brought in the name of the ordinary, in which treble damages and full costs shall be recovered.

Act for building fifty new churches in London and Westminster.

1. By the statute 9 *Ann. c. 22.* A duty *Duty on coals.* of 2 s. *per chaldre* is laid upon all coals imported in *London*, for a certain term or number of years.

2. The money arising by this duty is to be *Appropriated* paid into the exchequer, and appropriated for *to build new* building fifty new churches of stone with towers *churches.* or steeples, and for purchasing sites of churches, church-yards, &c. in or near *London* and *Westminster*, and for making chapels already built parish churches, such as are capable thereof, &c.

3. The queen, by letters patent may no *Commissioners* minate commissioners, who shall meet as of- *appointed.* ten as there is occasion, and inform themselves in what parishes the new churches are most necessary to be built, and of proper places to build them in, and of church-yards and burying places to be bought; and no burials are to be in or under any of the new churches.

4. The commissioners, or any five of them, may agree and contract for the purchase of *Their power* lands for the said new churches, for church- *in purchasing* yards, and for ministers houses: The lands *lands.* purchased shall be conveyed to the commissioners and their heirs; and they are to cause the churches to be built, provide houses for ministers, church-yards to be inclosed, &c.

Ascertaining bounds of churches.

5. They may, by parchment-writing under their hands and seals inrolled in chancery, ascertain the bounds to each new church and church-yard; and also the district of each parish that shall be appointed for every new church: And after the inrolment of such writing and consecration of the church, such district shall be taken to be a distinct parish; and the inhabitants within that district shall be parishioners thereof, and subject to all taxes, rates for the poor, &c. as the inhabitants in the parish from whence such new parish was taken, are chargeable; but shall be exempted from bearing any office or charge in the other parish.

Making new parishes, &c.

Rectors of the new churches.

6. There shall be a rector in every new church; and a morning preacher in a chapel converted into a parish church, who has officiated therein for a month before the consecration, who shall be the first rector of the new church; and in every other new church the first rector is to be appointed by the queen, and he and his successors shall be called the rector of such new church; and the freehold shall be in him and his successors, and he and they may purchase and take lands to the value of 200*l.* per annum.

Who to present.

Value of rectories.

How right of patronage settled.

7. Any person whatsoever may contract and agree with five or more of the commissioners for any lands, &c. or for limiting or settling the right of patronage, and presentation of the succeeding rectors; and until such settlement can be made of the right of patronage in every new parish, the crown shall present on any avoidance.

Ecclesiastical government.

8. The rectors of the new churches, and the church-wardens, shall be subject to the ordinary, and the bishop of London is to visit,

fit, institute and exercise ecclesiastical jurisdiction in all parishes to be erected, &c.

9. The first church-wardens, overseers of the poor, surveyors of the highways, and other parish-officers of every new parish, are to be elected by five or more of the commissioners out of the inhabitants, within a month after the consecration of each church: And the said parish-officers shall have the like powers, and be subject to the same laws as any other in *London and Westminster*; and all the succeeding parish-officers shall be chosen and sworn yearly in every new parish, according to the laws now in force. *How church-wardens, &c. elected.*

10. Five or more of the commissioners with the consent of the ordinary may name a sufficient number of the inhabitants of each new parish to be vestrymen, and upon the death or removal, &c. of any vestryman, the rest, or the majority, may chuse another, being an inhabitant and householder in the parish. But all parochial customs, by-laws, &c. used in any parish divided, shall notwithstanding such division, continue in both parishes. *Vestrymen chosen.*

11. Five or more of the commissioners, with the consent of the present rectors, church-wardens, vestry, &c. Or the rectors, vicars, parish-officers, and vestrymen or principal inhabitants, with the consent of the ordinary, by writing inrolled in chancery, may make a perpetual division of parishes, as to church rates, rates for the poor, highways, &c. and until such division be made, the parish rates, shall be assessed and levied through all parts which now belong to the present parishes. *Division of parishes, as to rates.*

12. The

*Rates for the
poor, &c.
how made.*

12. The parish officers, with the vestry or principal inhabitants of the new parishes, are to meet every year, on *Tuesday* in *Easter-week*, or oftner, on notice given the *Sunday* before in the church; and there assess the rates for the poor, and other parish rates, and apportion the said rates, to be collected for the relief of the poor.

1 *Geo. 1.*
*Maintenance
of clergy.*

By *Stat. 1 Geo. 1. c. 23.* A duty is granted on coals imported in *London*, to be appropriated for the maintenance of ministers for the fifty new churches; and the king is to appoint commissioners to execute powers, &c.

5 & 12
*Geo. 1. New
church of
St. Mary le
Strand.*

The 12 *Geo. 1. c. 39.* makes a particular provision for the rector of *St. Mary le Strand*, and ordains that the said rector shall have the interest of the sum of 2500*l.* out of the money directed by the act 1 *Geo. 1.* And for a farther maintenance 125*l. per Ann.* to be raised by an equal pound-rate on the inhabitants within the district appointed for the said parish; and the rector, church wardens and vestry are empowered to make assessments, being allowed by two justices of peace, &c. also the sum assessed shall be yearly collected by such persons as the vestry or church wardens shall nominate, for whom the parish is to be answerable, &c.

1 *Geo. 2.*
*church of
Milbank
Westm.*

And the *Stat. 1 Geo. 2. c. 19.* Enacts, that for raising a maintenance for the rector of the new parish near *Milbank* in the parish of *St. Margaret Westminster*, 2500*l.* shall be allotted for his share of 360,000*l.* appropriated for the churches, to be laid out in the purchase of lands, &c. for the use of the said rector, by order of the commissioners, &c. And also the sum of 125*l.* a year shall be raised on the inhabitants, by an equal pound-rate,

*Rates and
assessments.*

rate, made by the rector, church-wardens, &c. over and above fees and perquisites; payable quarterly, in lieu of tithes, &c. subject to some deductions to the present curate.

By 2 Geo. 2. c. 10. maintenance is provided for the minister of the new parish or hamlet of *Spittle-Fields*, viz. 3000 l. and 125 l. per Ann. to be paid by the church-wardens, out of money raised for burials, vaults, monuments, &c. *Spittle Fields church.*

And by 2 Geo. 2. c. 30. The like provision is made for the minister of the new church of *Wapping*. *Wapping Stepney.*

The 3 Geo. 2. c. 3. provides for the minister of the parish of *St. Mary Stratford Bow* in the county of *Middlesex*, viz. 3,500 l. to be laid out in the purchase of lands, &c. and 40 l. a year to be raised by the church-wardens, on pews, &c. for the use of the rector. *Stratford Bow.*

By Stat. 3 Geo. 2. c. 17. A provision or maintenance of 3,500 l. and 60 l. per Ann. is made and appointed for the minister of the new church at *Limehouse*. *Limehouse.*

And by 3 Geo. 2. c. 23. The sum of 3,500 l. and 70 l. a year payable by church-wardens, &c. is ordered for the minister of the new parish church of *St. Nicholas Deptford*, in the counties of *Kent* and *Surrey*. *St. Nicholas Deptford.*

The Stat. 6 Geo. 2. c. 8. was made for rebuilding the church of *St. George the martyr*, in the borough of *Southwark*, as one of the fifty new churches, appointing 6000 l. for that purpose, &c. *St. George the martyr.*

And the 6 Geo. 2. c. 21. provides a maintenance for the rector of the new church near *Old-street*. *Old-street church.*

Oldstreet, in the parish of *St. Giles Cripplegate*; viz. 3,500 *l.* to be laid out on lands, and 120 *l.* per Annum, &c.

Shoreditch church.

8 Geo. 2.

The 8 Geo. 2. c. 27. was enacted for rebuilding *Shoreditch church* in the county of *Middlesex*; and the trustees may assess all lands, tenements, &c. not above 1 *s.* in the pound, and receive certain rates for burials, &c. also may grant annuities to raise money not exceeding 8000 *l.*

St. Olave.

10 Geo. 2.

And the Stat. 10 Geo. 2. c. 18. enacts, That the parish church of *St. Olave* in the city of *London* and borough of *Southwark*, shall be pulled down and rebuilt, by trustees, &c. The sum of 5000 *l.* may be raised for that purpose; and rates made of 6 *d.* per pound, on lands, houses, &c. The fees for ringing the bell, and use of palls at funerals, are appointed; and no person shall bring into the church or burying grounds, any pall, unless he has paid such fees.

No Settlement gained.

The payment of rates to be levied by this act, shall not make any person settled in *St. Olave's* parish.

Rotherith church.

11 Geo. 2.

The 11 Geo. 2. c. 13. was made, for taking down and rebuilding the church steeple, and enlarging the church of *St. Mary Rotherith*, and purchasing an additional burial ground; for which 2000 *l.* to be raised by the trustees, on security of the rates.

Ealing church.

12 Geo. 2.

By the 12 Geo. 2. c. 7. Trustees to finish the parish church of *Ealing* in the county of *Middlesex*; who are empowered to raise 1500 *l.* for that purpose; and to grant annuities and make assessments on lands, not exceeding 6 *d.* per Pound, &c.

And

And by 12 Geo. 2. c. 17. and 12 G. 2. c. 12. *St. Catherine*
The parishioners are enabled to rebuild the Coleman's in
church of *St. Catherine Coleman* in *Fenchurch-* Fenchurch-
street in the city of *London*, and trustees may raise street.
money not exceeding 2,700*l.* and make rates 12 Geo. 2.
of 1*s.* 6*d.* per pound on lands and tenements.

By 14 Geo. 2. c. 27. Parishioners of *St. Botolph* *St. Botolph*
without Aldgate, London, are enabled *without Al-*
to rebuild the church of that parish: The gate.
trustees to make assessments on all lands and 14 Geo. 2.
houses, of 6*d.* per pound: And 6000*l.* is
to be raised, and thereout annuities granted at
8*l.* 10*s.* per Cent. &c.

By the 16 Geo. 2. c. 28. The hamlet of *Bethnal-*
Bethnal-Green, in the parish of *Stepney*, in *Green in*
the county of *Middlesex*, is made a separate *Stepney Pa-*
parish, and a church to be built there, &c. *rish.*
Trustees may raise 5000*l.* for this purpose, 16 Geo. 2.
and make assessments not exceeding 1*s.* in the
pound, &c. And the church-wardens out of
the parish dues payable to them, are to pay
the rector 130*l.* per annum.

Of Vestries and Vestrymen.

A vestry is the assembly of the whole parish, *Vestry, why*
met together for the dispatch of the business *so called.*
of the parish; and this meeting being com-
monly held in the place for keeping the priests
vestments, adjoining or belonging to the
church, it thence has its name of vestry.

In former times, the bishops and beneficed *How former-*
priests sat together in vestries, to consult of *by composed.*
the affairs of the church; in imitation of
which, the minister, church-wardens and
chief men of parishes, do at this day make a
parish vestry.

Antiently every parishioner who paid to *Parishioners*
the church rates, or scot and lot, had a right to come
right to them.

right to come to these meetings; and when they who are thus qualified, are assembled at the time and place appointed, all that are absent shall be concluded by a majority of those who are present. But in large populous parishes, a custom has obtained of yearly chusing a certain number of the chiefest and most reputable men to represent all the rest, who are called a *select vestry*.

Of select vestries.

But select vestries having been thought oppressive and injurious in some parishes, the power of them hath been contested: And not long since the select vestries of *St. Saviour's* and *St. Olave in Southwark* were set aside and demolished; but the select vestry of *St. Mary Hill in London*, and of the parish of *Massam in Yorkshire*, on due proof of custom and usage, were allowed and confirmed in *B. R. Mich. 2 W. & M. 2 Lutw. 1027*.

Vestrymen in London, and other places.

By custom there may be a vestry chosen, to have the government of a parish, make rates, and take accounts of church-wardens, &c. And vestrymen are a select number of the chief parishioners, in every parish within the city of *London*, &c. who yearly chuse officers for the parish, and take care of its concernments, by statute: And these vestrymen are to make a declaration or acknowledgment, that they will conform to the liturgy of the church of *England*, as by law established, &c. *Stat. 15 Car. 2. c. 2. and 5.*

How elected, and their power, method of calling vestries.

In the election of vestrymen, those that do not pay to the church rates have no votes; except the parson or vicar. When any rates are made, the parishioners must have notice of a vestry held for that purpose; and the *Sunday* before any vestry is to meet, this notice ought to be given, either in the

church

church after divine service, or at the church door, both of the time and place of the assembling, and for what business; and it is usual for one of the church bells to be tolled half an hour before the vestry begins, and when the parishioners are met, the major part present conclude all the others; but to make their consent more authentic, 'tis necessary that every such act be entered by the vestry clerk in the parish book, and that every man consenting set his hand thereto.

5 Rep. 66. Hestl. 61. 1 Mod. 194, 236.
2 Mod. 222.

Action of the case lies against a vestry clerk, for shutting a parishioner out of the vestry-room, who hath a right to be present and vote in the vestry, at the making of rates, &c. for this action is his proper and only remedy; there being no breach of the peace, or damage to the publick, to have remedy by indictment or information: This was held by the court; though it was insisted, that the action would not lie, because it might encourage multiplicity of actions against one person for the same offence, and the plaintiff ought to set forth some particular damage done him.

Persons shut out of a vestry, their remedy.

But the plaintiff is to shew a legal or prescriptive right in the parishioners to meet at a vestry; and set forth a right in himself to enter the room where the vestry was kept; for otherwise it may be the room of the defendant, where he hath no right to come. Pasch. 8 Geo. 1. Phyllibroawn v. Ryland, Mod. Cas. L. & E. 354.

A late case on this head.

The statute made by 9 Ann. c. 22. for Clause in act building the fifty new churches in London and for building Westminster, as I have before observed, or fifty new dains, churches.

Church-wardens and

dains, that five or more of the commissioners shall have power, with the consent of the ordinary, by writing under their hands and seals enrolled in *Chancery*, to name vestrymen for each new parish erected; and on the death of any vestryman, &c. the rest of them may chuse another out of the inhabitants and householders of the parish.

*Who make
a vestry in
Spittle-
Fields parish.*

By the statute 2 *Geo. c. 10.* made for the raising a maintenance for the rector of the new church built in *Spittle-Fields*, 'tis enacted, that the rector of that church, and church-wardens and overseers of the poor of that new parish, and all other persons who have served or paid fines for being excused from serving those offices, shall be the vestrymen for the time being, and meet on public notice; and the said vestrymen shall elect and nominate a lecturer, church-wardens, sidesmen, parish-clerk, and other officers of the church and parish, &c.

*In the parish
of Wapping
Stepney.*

By statute 2 *Geo. 2. c. 30.* for providing for the rector of *Wapping-Stepney* new church; the rector, church-wardens and overseers of the poor for the time being, and all others who shall pay two shillings a month or more towards the relief of the poor, and none other persons shall be vestrymen of that new parish; and have the same power, &c. *ut supra.*

*In St. Nicholas Dept-
ford parish.*

And by the statute 3 *Geo. 2. c. 33.* for raising a maintenance for the minister of the new parish-church of *St. Nicholas Deptford*, it is ordained, that the minister, church-wardens, overseers of the poor, and all other parishioners, who shall pay to the relief of the poor, shall be vestrymen of that new parish

Overseers of the Poor.

139

parish; and shall meet, and have the same powers, &c. *supra*.

And the like clauses are inserted in divers other statutes, concerning other new parish churches. *In other parishes.*

The statute 7 *Ann. c. 17.* enacts that the church-wardens, overseers and principal inhabitants of parishes in a vestry, shall rate and assess competent sums for defraying the charge of engines, &c. in every parish within the bills of mortality. *Vestries to make rates for engines, &c.*

And vestries of parishes are to be consulted by church-wardens and overseers of the poor, and give their consent to the hiring of houses for the better employment and maintenance of the poor, by 9 *Geo. 2. c. 7.* *Houses hired for poor.*

Of the Vestry-Clerk and Beadle.

The vestry-clerk is chosen by the vestry, and acts as their register or secretary; and he has the custody of all books and papers relating thereunto. *Business of clerk of the vestry.*

The beadle of a parish is also one chosen by the vestry, whose business is to attend it; and generally to do and execute all the orders and business of the vestry and parish, as their messenger or servant; he is to assist the constables in taking up beggars, passing vagrants, &c. And where they are to be passed to a great distance, he is sometimes inserted among the overseers of the poor, &c. *Office and duty of the parish beadle.*

And in London the beadles are assisting to the constables and watch, in going the rounds at night, and other business. *In London.*

O V E R.

OVERSEERS

OF THE

POOR, &c.

*Overseers,
how created.*

THESE officers were created by the statute 43 *Eliz. c. 2.* (the first statute-law made for relief of the poor) and they are called overseers, as they have the government of the poor.

Their number.

By that statute the church-wardens of every parish, and four, three or two substantial householders there, as shall be thought meet, having respect to the proportion and greatness of the parish, are to be appointed overseers of the parish. And I apprehend that a greater number than four cannot be appointed, be the parish ever so large.

Manner of election.

They are usually nominated in *Easter Week*, or within a month after, out of the substantial householders, by appointment under the hand and seal of two justices, residing in or near the parish or division where the parish lieth.

Justices

Overseers of the Poor.

141

Justices of the peace neglecting to nominate overseers of the poor, and mayors, and head officers of the town or place where default shall happen, forfeit 5 *l.* to be employed towards the relief of the poor. *Defaults in choosing.*

These overseers are to meet once a month in their respective parish churches, to consider of proper methods for the relief of, and providing for the poor; and every one absenting himself from such monthly meeting, not being sick, or having some just excuse to be allowed by two justices, is to forfeit 20 *s.* for every default. *To meet once a month.*

Church wardens shall likewise meet once a month with the overseers of the poor, or they may be punished for their neglects; by which it appears that they have an equal power and charge with the overseers. *Church-wardens the same.*

Overseers are to take care that the poor be set at work, or relieved if not able, and to settle them in their habitations.

But none are to be relieved, whose names are not registred in a parish-book, kept for that purpose; unless by authority under the hand and seal of a justice, (on oath made of cause, and refusal of relief by overseers, &c. by new Act 9 *Geo.* 1.) or in case of pestilential diseases, viz. the plague, or the small-pox, in respect of their families only. *What poor persons to be relieved.*
Stat. 3 & 4 W. & M. c. 11.

Persons relieved must have, on the uppermost garment, and upon the shoulder of the right sleeve, a large letter *P.* and the first letter of the parish; or otherwise one justice, upon complaint, may cause their allowance to be abridged or suspended, or may commit the offenders to the house of correction, not exceeding *Poor to wear badges, &c.*

exceeding one and twenty days. *Stat. 8 & 9 W. 3. c. 30.*

*Relieving
contrary to
the statute.*

Officers relieving those who do not wear the badge forfeit 20 s. for every offence; one moiety to the informer, the other to the poor.

*Three sorts
of poor.*

There are reckon'd three sorts of poor people; such as are poor by impotency, (which takes in the aged, decrepit, lame, blind, distracted persons, infants, &c.) such as become poor by casualty, (which includes persons maimed, undone by fire, overcharged with children,) and such as have made themselves poor by rioting, idleness, drunkenness, &c.

Relieved.

As to the first sort, the poor by impotency, the overseers are to provide for them a necessary relief and allowance.

Employed.

As for the second sort of poor, those by casualty, if they are of ability and strength, they are to be set on work by the overseers, and to be farther relieved according to their necessities.

*Set at
work, &c.*

But for the third sort, they are not to be relieved, except it be in cases of great extremity; but are to be sent to the house of correction, and there set at work to maintain themselves by hard labour. *Dalt. 157, &c.*

And in every county, there is to be a house of correction, or the justices shall be fined, &c. 39 *Eliz.*

*Poor pro-
vided for
in present
exigencies.*

In present exigencies overseers are to provide for poor, and it is discretionary to give them money, or victuals, &c. And they may be reimbursed by general order of justices in sessions. *Style 246. 1 Keb. 336.*

Overseers

Overseers of the Poor.

143

Overseers are to set at work all such persons as have no visible income to maintain themselves, or follow no trade or business to get their livelihoods; and they may with the consent of two justices of peace set up any trade, mystery or occupation for the setting on work and relieving the poor of the parish or place. *What persons may be set at work.* Stat. 3 Car. 1. c. 4.

Children of all such whose parents shall not, by the church-wardens and overseers, be thought able to keep them, are to be thus set at work. *Trades set up.* 43 Eliz. c. 2. And any justice may send to the house of correction, &c. persons refusing to be employ'd in work.

The overseers of the poor shall within four days after the end of the year, and after other overseers are nominated, give up their accounts before two justices, of all money received by them, or what is assessed, and not received; what poor they have relieved, what stock they or the poor have in their hands, and of all other things belonging to their office, and shall pay and deliver over what is in their hands to the new church-wardens and overseers. *Overseers to account before justices.* Stat. 43 Eliz. c. 2.

And as often as overseers of the poor yield up their accounts to the justices, they shall give in the name and quality of every person buried within the parish, from the time of their former account; and of such certificates as came to their hands from the parish, &c. of persons interr'd contrary to the Statute 30 Car. 2. c. 3. for burying in Woollen; and also of their levying the penalty of 5*l.* and give an account of the disposal of the same, or they shall forfeit 5*l.* *Burials in woollen to be accounted for.* And their accounts shall not be allowed, till they have accounted for the burials. Affidavit

Church-wardens and

is to be made in eight days, that a person was buried in woollen.

Refusing to account,

If overseers refuse to account, or to deliver over what remains in their hands to their successors, two justices may commit them to gaol, there to remain without bail, till they account and pay over the money; or, in the last case, the same may be levied by distress. *Stat. 43 Eliz.*

Making false accounts.

If an overseer makes a false account, he may be bound over to the sessions, and there indicted, &c. *Dalton's Justice* 154. And in actions brought against overseers of the poor, for mispending the parish's money, any parishioners not receiving alms, shall be admitted as evidence. *Stat. 3 & 4 W. & M.*

Not to disburse monies.

Overseers are not obliged to disburse any of their own money for the relief of the poor; but if they do, a rate ought to be made to reimburse them; and the overseers may make a rate for that purpose, and when the money is levied, pay themselves; and if the justices refuse to sign it, then a *Mandamus* may be issued, requiring them to do it. *2 Keb. The king adversus Ogden, Mod. Cases* 97.

When may be compell'd.

But if an overseer be obstinate, and will not disburse any thing, the justices may compel him, and make a tax for the poor of themselves. *Per Windham.*

Of the Poor's Rate.

Overseers power in making rates.

Overseers of the poor have power to rate and tax every inhabitant and occupier of houses, lands, tithes, underwoods, mines, &c. to raise money towards the relief of the poor, providing a competent stock of flax, hemp,

hemp, &c. to set the poor on work, and *And for*
also for the putting out poor children appren- *what pur-*
tices; which rate being allowed by two justi- *poses.*
ces, the church-wardens and overseers may
levy the same by distress and sale, and for
want of distress, the party may be committed
to gaol till payment. 43 *Eliz. c. 2.*

All persons, the clergy not excepted, must *Persons and*
contribute to the relief of the poor. 2 *Keb. things to be*
251. And all things that bring in an annual *taxed.*
profit, may be taxed; tolls are taxable.
3 *Keb. 594.*

But if the overseers make an unequal rate,
they may be indicted for it, and fined. 1 *Keb.*
173.

All assessments ought to be made according *Occupiers of*
to the visible estate the party hath or pos- *lands, &c.*
sesseth in the parish where the assessment is
made, and not elsewhere; the words of the
act directing a taxation on the occupiers.
2 *Bulst. 354.*

The tax is to be in proportion to the year- *According to*
ly value, and not the quantity of land; and *the yearly*
as it arises by reason of the land in the parish, *value.*
the farmer or renter is to pay it, and not the
landlord; and the landlord is never assessed
for his rent.

It is either upon lands or goods; but a *Personal*
farmer being assessed for the land he occu- *estate taxed.*
pieth, shall not be assessed for his stock on
that land, necessary for manure, nor the pro-
fits for which he has already been taxed; but
for other stock he is taxable. And a clo-
thier, &c. having an estate in lands, and a
great stock of wares, may be taxed for both.
Blackerby's Cases 203, &c.

When goods are rated, it ought to be after *After the*
the value of lands, (*viz.*) goods of the *rate of lands.*
H value

value of 100 *l.* should be rated at 5 *l.* *per ann.* or as lands are; and persons must be charged only in that place where the goods are at the time of assessment, as in case of lands.

Wrong assessments.

And if a man have no goods where assessed, and is distrained, he may have an action of trespass, &c.

Taxing of villages, &c.

Overseers of a parish in reputation, though it be really no parish, may make rates for their poor, and distrain for the non-payment of them. *Cro. Car.* 92. *Hilton versus Parole.* And the inhabitants of a village, having a chapel and parochial rights, shall not be taxed to the poor of the rectory. *Roll. Rep.* 160. *Contra*, if no parochial rights.

Particular counties how to provide for their poor.

The inhabitants of *Lancashire, Cheshire, Yorkshire, Northumberland, Durham, Cumberland and Westmorland*, by reason of the largeness of their parishes, are to have overseers, and to relieve and provide for the poor within their respective townships, or villages, as in parishes. *Stat.* 13 & 14 *Car.* 2. And other counties in *England and Wales* are mentioned generally in the preamble of the act.

Parish in two counties.

If a parish extends into two counties or liberties, the overseers are to act in the whole parish, and not divide themselves; but the justices shall not intermeddle with that part which lies out of their jurisdiction. *1 Vent.* 350.

How officers to act.

But if there be a church-warden and several overseers of the poor, some for part of the parish in one county, and others for the other part in the other county, and the rates are several, and accounts separate, they shall be taken as distinct parishes: The case of *St. Botolph without Aldersgate*, lying part in *London*,

Overseers of the Poor.

147

London, and part in the county of *Middlesex*.
Raym. 477.

If a parish is not able to maintain its own poor, two justices may tax any other parish within the hundred; and the sessions have power to tax the whole county. *Stat.* 43 *Eliz.* *Power of justices in taxation.*

But when the cause of taxation of other parishes, for inability of those wherein the poor are resident, ceases, the tax shall cease also; and the contribution lessen, as there shall be less occasion. *Mod.* 374 *Littleton* 73. *The hundred or county.*

It has been adjudged, that the justices may tax particular persons, and need not assess the whole parish, which is to contribute to the poor of another parish. 2 *Bulstr.* 352. *Particular persons.*

The church-wardens and overseers, or other persons authorized to take care of the poor in every parish, township or place, shall give publick notice in the church of every rate for the relief of the poor allowed by the justices of peace, the next *Sunday* after the same shall have been so allowed; and no rate shall be esteemed, or reputed valid and sufficient, so as to collect and raise the same, unless such notice shall have been given. *Stat.* 17 *G.* 2. *Publick notice to be given of rates.*

c. 3. §. 1.

The inhabitants may inspect the rates, paying 1 s. and have copies of them, or any part of them, paying 6 d. for any twenty-four names. *Same Stat.* §. 2. *The inhabitants may inspect and have copies.*

Church-wardens or overseers, &c. not permitting such inspection, or refusing to give copies, forfeit to the party aggrieved 20 l. to be recovered by action of debt, &c. *Same Stat.* §. 3. *Penalty.*

The form of a rate or assessment for the poor. A. in Com' **A** Rate and assessment made Berks, ss. **A** this day, &c. on the inhabitants of the parish of A. aforesaid, for and towards the relief of the poor there, for the year, &c. Or, being the first, or second farther rate for relief of the poor of the said parish, for the year 1733, at 9d. in the pound.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
A. B. Gent.	0	10	0
C. D. Yeoman,	0	5	0
E. F. Merchant,	0	7	6
G. H. Linen-draper, &c.	0	6	0

J. K. Church-warden.

L. M. }
N. O. } Overseers.

We whose names are underwritten, being inhabitants of the parish of A. aforesaid, have perused the above rate and assessment, and do hereby declare, that the several sums above-mentioned are, by our approbation, rated upon the respective persons concerned; and that the same is an equal rate, according to the best of our judgments.

P. Q. }
R. O. } Parishioners.
J. L. }
A. M. &c. }

Memorandum, this day, &c. the above rate and assessment was ratified and allowed by us, two of his majesty's justices of the peace for the county aforesaid.

T. O.
L. C.

In

In the large parishes about *London* and *Westminster*, they usually make a *collecting book for the poor's rate*, in the following form.

Westmin. ss. **A** Rate or assessment of sixpence in the pound, made the day, &c. being *Easter-Tuesday* in the year of our Lord 1742, for and towards the relief of the poor of the parish of, &c. in the liberty of the city of *Westminster* aforesaid and county of *Middlesex*, for the said year 1742. By the church-wardens and overseers of the poor of the said parish, by and with the assent of two of his majesty's justices of peace for the said city and liberty, (of whom one is of the *quorum*) according to the statute in that case made and provided.

Church-wardens.

} Overseers of the poor.

If there be a select vestry, some of them, and such of the antient inhabitants as are present at making the rate, sign here. } Inhabitants.

The above is to be inserted in the first page of your collecting book.

Then begin a new leaf, thus:

Rents.	Inhabitants names.	Rates.
40 00 0	— <i>A. B. Esq;</i>	— 1 00 0
37 00 0	— <i>Mr. C. D.</i>	— 0 18 6
25 00 0	— <i>Mr. E. F.</i>	— 0 12 6

Church-wardens and

In this manner, set down the names of the several parishioners, the rents they pay, and the sums they are assessed, according to the above rate; and then beginning a new page, you make a summary account of the rents and rates, being the sum total of each page, as follows :

Account of — Rents and Rates.

The foregoing

Folio 1.	745	10	0	18	11	9
Folio 2.	908	15	0	22	14	4½

And so of the rest.

Total —————

On a new leaf then draw up the confirmation of the justices in this manner :

Westminster in the } **W**E whose names are
 county of *Mid-* } hereunto subscri-
dlesex, to wit. } bed two of his majesty's
 justices of the peace for the city and liberty
 aforesaid, (one of us being of the *Quorum*)
 have seen and perused the foregoing rate and
 assessment for the poor of the parish, of, &c.
 And do hereby confirm and allow the same,
 and appoint you *E. F.* and *G. H.* two house-
 holders of the said parish, to collect and ga-
 ther the same, and render an account thereof
 according to law. *Given* under our hands
 and seals the—day of —1742.

Note; duplicates are kept of all collecting books.

The

Overseers of the Poor.

151

The rate being thus confirmed, if any person shall refuse to pay, &c. it may be levied by warrant from two justices by distress; and if that cannot be taken, then two justices may commit the person refusing, without bail, till payment (*ut prius.*)

Rates to be levied by distress.

It has been adjudged, that by the statute the poor's rates ought to be assessed monthly, and not quarterly, &c. for otherwise a man cannot remove in the middle of a quarter, but he will be twice rated; nor can a distress be taken by a general warrant made at the time of the rate, but there must be a special warrant; neither can it be taken for a quarter before it is ended, if the custom is to rate quarterly. 2 Salk. 532.

Poor's rates how often to be made by statute.

The quarter-sessions will relieve such persons as are grieved by these rates or taxes. The church-wardens and overseers of a parish, made a rate for the relief of the poor, which was confirm'd by two justices of peace; but all was rated upon the real estates of the inhabitants, and none on the personal; and therefore an appeal was brought to the quarter-sessions, where the rate was quashed, and the overseers, &c. ordered to make a new rate upon the real and personal estates. 2 Salk. 483.

Relief against rates in the quarter-sessions.

Old rates vacated, and new ordered.

It was objected, that the sessions had no power to vacate whole rates; but adjudged that they may quash such rates, and refer it to the church-wardens and overseers to make new ones, or they may make a new rate themselves. *Ibid.*

Adjudg'd in B. R.

Church-wardens and overseers within fourteen days after other overseers shall be appointed to succeed them, shall deliver to the succeeding overseers a true account, signed by them, for.

Overseers to deliver an account to their successors.

Church-wardens and

*Inhabitants
may inspect
and have co-
pies.*

*Punishment
for default.*

*Overseer dy-
ing or re-
moving.*

*Appeal from
rates.*

*Distress for
rates may be
levied in an-
other county.
Overseers to
reimburse
their prede-
cessors.*

them, of all sums received or rated and not received, and of all goods, &c. in their hands, and of all things relating to their office, and pay and deliver over all sums and goods, &c. The account to be verified by oath before a justice. Parishioners paying 6 *d.* may inspect the account, and paying 6 *d.* for every three hundred words, may have copies. *Stat. 17 G. 2. c. 38. §. 1.*

Church-wardens and overseers not delivering such accompt, &c. and paying, &c. may be committed by two justices, until, &c. *Same Stat. §. 2.*

Overseer dying or removing out of the parish, two justices may appoint another in his stead. *Same Stat. §. 3.*

Overseer before removal to deliver to some church warden or other overseer his accompt, as before directed, under the like penalty. *Same Stat. §. 3.*

Overseer dying, his executors, &c. within forty days to deliver over all things concerning his office to some church-warden or other overseer, and pay out of his assets what due from him before payment of any other debts. *Same Stat. §. 3.*

Persons aggrieved by any rate, or having reasonable objections to it, as unequal, may appeal to the quarter-sessions. *Same Stat. §. 4.*

The goods of a person assessed and refusing to pay may be levied in any place in the same county; and if sufficient distress cannot be found there, then on oath before a justice of any other county, they may be levied in that county. *Same Stat. §. 7.*

Succeeding overseers shall levy arrears, and thereout reimburse their predecessors what they have

have expended for the use of the poor. *Same Stat. §. 11.*

Persons occupying any house, &c. out of *Persons occupying any house, &c. out of which any other person assessed has removed, pying a house, or which at the making the rate was empty, out of which every person so removing, and the person so any person coming into and occupying the same, shall has removed, pay to such rate in proportion to the time he or that was occupied the same, under the like penalties empty when of distress, as if he had not removed, or been rated. originally rated; the proportion, in case of dispute, to be ascertained by two justices.*

Same Stat. §. 12.

Copies of all rates shall be entered in a *Rates to be book, whereto all persons assessed or liable to entered in a be assessed may freely resort. Same Stat. book and in- §. 13. spectated by, &c.*

Besides these rates for relief of the poor, *Penalties for there are several penalties inflicted by act of the use of the parliament for offences committed, to be ap- poor. plied to the use of the poor; for which see under the heads of constables, church-wardens, neglects in repairing highways, scavengers, &c.*

Having treated of overseers of the poor in *Relief of general, I proceed to several particulars; as poor impo- the laws relating to the relief of impotent tent per- persons, poor prisoners, &c. concerning the sons. placing forth poor apprentices, bastardy and Particular settlements. laws.*

A father, grandfather, mother, and grand- *Parents to mother, and husband of the grandmother relieve chil- (being of sufficient ability) are to maintain dren, &c. and relieve their children, which are ac- counted impotent poor, as the sessions shall order; under the penalty of 20 s. per month.*

43 Eliz. c. 2. But if the husband of the

A fortune in marriage with a grand-mother.

grandmother have no means or advancement in marriage with her, he shall not be obliged to keep the child. 2 *Bulstr.* 345, 347.

The husband's having means, or his being of ability after marriage, will not make him liable to the maintenance of a poor grand-child, unless the grandmother had means sufficient; but if after marriage, lands descend to such grandmother, and the husband enjoys them in her right, he shall be bound to keep the child. A bastard child is out of the statute, and to be provided for otherwise.

Father.

A father has been ordered to allow maintenance to the son's wife, he being beyond sea; and a father-in-law has been adjudged within the meaning of the act 43 *Eliz. Style* 283.

Children of ability to maintain parents.

Children of poor, old, impotent persons, or others, not able to work, are at their own charges to relieve and maintain them, (in like manner as parents are to relieve their children) if such children are of ability, under the like penalty of 20 s. per month, to be levied by distress and sale, &c. per Stat. 43 *Eliz. c. 2.*

Church-wardens, &c. to examine the register of poor.

For the better relief of poor impotent persons, and to prevent imposition of church-wardens and overseers of the poor, the parishioners of every parish are yearly in *Easter Week*, or as often as it shall be thought convenient, to meet and examine the register book of the poor; and the reasons of their taking relief, &c. and to alter the list as they shall see occasion. Stat. 3 & 4 *W. & M.*

And alter lists, &c.

And

And the persons receiving relief are to wear *Persons ex-* badges, as has been before observed ; (except *empted from* such child as shall be permitted to live at *wearing* home, to take care of an impotent and help- *badges.* less parent.)

This statute was made to prevent misap- plying money raised for the impotent and poor, on idle beggars.

To provide houses for the poor, church- *Cottages for* wardens and overseers, with the leave of the *the poor, on* lord of the manor, in writing under hand and *the waste.* seal, or according to any order set down by justices of the peace in their quarter-sessions, may build cottages at the general charge of the parish, &c. on the waste, for habitations of poor impotent persons ; and place inmates or more families than one in a cottage. *Stat.*

43 *Eliz. c. 25.*

The money for building these cottages, at *Taxes for* the public charge of the parish, may be raised *erecting them.* by a tax, as before directed, &c.

*To the worshipful the justices at the
general quarter-sessions of the peace,
holden at, &c. for the county of, &c.*

The humble petition of J. D. of, &c.

Sheweth,

THAT whereas your petitioner being *A petition to* very weak and impotent, and with his *justices for an* wife and children settled as an inhabitant in *order for e-* the said parish of, &c. and at present destitute *resting a cot-* of an habitation, hath by application made *tage.* to *A. B. Esq;* lord of the manor of, &c.
obtained

obtained his consent, under his hand and seal, for your petitioner to erect and set up a cottage on the waste within the parish of, &c. aforesaid, for an habitation for himself and his family; if an order of sessions can be obtained for confirmation thereof, as by the paper hereunto annexed doth appear.

May you therefore be pleased to grant unto your poor petitioner the order of this court, whereby your said petitioner may set up a cottage for an habitation for himself and poor family, on some convenient place on the waste, within the manor of, &c. aforesaid.

And your petitioner shall ever pray.

*Relieving
sick and in-
fected per-
sons.*

Where persons labour under pestilential diseases, justices of peace, mayors, &c. of cities and corporations, may set a weekly tax on the inhabitants of the corporation, for relief of poor persons infected with the plague; and if they are not able to pay it, then on certificate by such mayors, &c. the two next justices of the county may tax all the inhabitants within five miles of the corporation.
Stat. 1 Jac. 1. c. 31.

And payment being refused, it may be levied by distress and sale; and in default of a distress, the party to be committed to gaol till payment.

*Taxes for re-
lief of poor
prisoners.*

The law is likewise no less careful in providing for poor prisoners; for the statute 43 *Eliz. c. 2.* gives power to justices of peace, at *Easter* sessions yearly, to rate every parish at a certain sum to be paid weekly, no parish to pay more than 6*d.* towards relief of poor prisoners in the *King's Bench* and *Marshalsea*; and

*In the Mar-
shalsea, &c.*

and treasurers for the county are to be chosen at the said *Easter* sessions, &c.

Justices of peace of every county in their general quarter-sessions, may also tax every parish in the county towards relief of prisoners for debt in the common gaol, so it does not exceed 6*d.* or 8*d.* a week for every parish, to be levied by church-wardens, and paid once a quarter to the high constables or head officers of every town, &c. who are to pay it to the collectors appointed by the justices in their sessions. *Stat. 14 El. c. 5.*

Prisoners in the common gaol.

Justices in their sessions may likewise provide a sufficient stock to set poor prisoners to work, committed for felony, and other misdemeanors, by such ways and means as other county-charges are raised, provided no parish be rated above 6*d.* a week; and they may appoint overseers and collectors, examine their accounts, and punish abuses, &c. *Stat. 19 Car. 2. c. 4.*

Stock for poor prisoners, &c.

The placing forth poor children apprentices, is esteemed one of the best methods of providing for the poor.

Proo: apprentices.

Church-wardens and overseers of the poor may put out children of parents not able to maintain them; but it must be by the assent of two justices.

How placed out.

The children so put forth are to be above seven, and under fifteen years of age; and those above the age of ten years, may be bound by their own agreement, by indenture, &c. and if above twelve, they may be compelled by a justice. And the man-child shall be bound till he come to the age of twenty-four, and the woman child till twenty-one. *Dalt. 143. Stat. 43 El. c. 2.*

Proper ages, and time to serve.

Church-

*Who to take
poor appren-
tices.*

Church-wardens and Overseers, with the assistance of the justices, may oblige all persons of ability, as gentlemen, clergymen, yeomen and tradesmen, (such as bakers, brewers, carpenters, masons, weavers, taylor, dyers, fullers, &c.) to take apprentices, either with money, or without, there being no necessity of giving money with them; for it is discretionary in the church-wardens, whether they will give any or not. And justices shall determine disagreements between masters and officers.

*Children re-
fusing to be
bound, &c.*

Overseers of the poor are judges of the disability of parents to maintain their children; and such as refuse to have their children placed forth apprentice, may be bound over to the sessions: Children refusing to be bound, are to be sent to the house of correction, 'till they shall be willing. *Dalt.* 148, 153.

*Masters re-
fusing to ac-
cept appren-
tices.*

Masters refusing to receive such apprentices, by the *Stat. 43 El. c. 2.* were to be bound over to the assizes; and if they refused to give bond, they might be committed; or the church-wardens and overseers, by consent of two justices, had power to fine them to raise money to place the apprentices with others, and if they refused to pay such fines, the two justices might make a warrant to levy them by distress, &c. But now by the statute 8 & 9 *W. 3. c. 30.* upon the church-wardens making oath of the refusal of the master, before two justices, he forfeits 10*l.* to be levied by warrant of two justices, to the use of the poor.

*Forfeit
10*l.**

Though the party may appeal to the next sessions; and a man may not be compelled to take an apprentice that may be a spy on his family, a thief, enemy, &c. *Vent. Rep.* 325.

Monies

Monies may be raised for placing out ap- *Taxes for*
prentices by overseers, in like manner as for *placing out*
relief of poor, by taxing every inhabitant *poor appren-*
and occupier of lands, houses, tithes, &c. *tices, and*
Stat. 7 Jac. 1. And where charity-money *money given*
is given for that purpose, if in towns corporate, *for it.*
it shall be employed by the corporation; if in
other places, by the parson, constable, church-
wardens and overseers, &c. or the greater
part of them; who, if they refuse, forfeit
five marks each, to the use of the poor.
Stat. 7 Jac. 1. c. 3

Masters must give security to repay what *Money with*
money they take with such an apprentice, at *apprentices to*
the end of seven years or within one year after *be returned.*
the death of the apprentice, if he die in that
time; to be employed for putting out others.
The trustees must account in *Easter* week, to
the two next justices.

If there be no fit persons to be apprentices *Apprentices*
in the place where the money is given, it may *placed in*
be employed in the parishes adjoining; but *other pari-*
the church-wardens cannot place them to ma- *shes.*
sters in another parish, tho' the justices in ses-
sions may; and if there are no masters fit to
receive them in the hundred, then they may
be put out in the county at large by order of
sessions.

Apprentices may be placed to farmers, who *Farmers to*
shall receive them for husbandry; and single *take appren-*
women, widows, &c. for housewifry, &c. *tices in hus-*
But apprentices in husbandry must be above the *bandry.*
age of ten, and under eighteen. They may
serve till twenty-one, or twenty-four years of
age; and justices of peace may compel per-
sons that are fit, to serve in husbandry as ap-
prentices, until one and twenty. *Stat. 5 El.*

An inden-
ture of ap-
prentice-
ship.

This *Indenture* made, &c. between *A. B.* and *C. D.* church-wardens of the parish of, &c. in the county of, &c. and *E. F.* and *G. H.* overseers of the poor of the same parish, *L. M.* a poor child of the said parish (or son of, &c. who is not able to bring up and maintain him) of the one part, and *J. K.* of, &c. taylor, of the other part, *Witnesseth*, That the said church-wardens and overseers, by the assent of, &c. two of his majesty's justices of peace of the said county, according to the direction of the statute made in the forty-third year of the reign of queen *Elizabeth* for the relief of the poor, hath put out and bound the said *L. M.* apprentice to the said *J. K.* till the said *L. M.* shall come to the age of twenty-four years. During all which time, the said apprentice his said master well and faithfully shall serve, his secrets keep, his lawful commands every where willingly do. He shall do no hurt or damage to his said master, nor consent to its being done by others, but shall forthwith give notice thereof: He shall not waste the goods of his said master; nor lend them to any person without his consent. He shall not frequent taverns nor alehouses, during the said term (except it be in his master's business) and he shall not play at cards, dice, or other unlawful games. He shall not, either by day or night, absent himself from his said master's service, but in all things as a good and faithful servant shall demean himself towards his said master, and all his. And the said *J. K.* his said apprentice shall, during the said term, educate and bring up, or cause to be educated and brought up, in his trade of a taylor in

the

Overseers of the Poor.

161

the best manner that he can; and find and allow unto him during the said term, sufficient, wholesome and competent meat, drink, lodging, washing, apparel, and all other necessities meet for such an apprentice.

In witness, &c.

The consent of the justices indorsed
on the backside.

We whose names are hereunder subscribed, justices of the peace of the county of, &c. do consent to the putting forth *L. M.* apprentice according to the intent and meaning of the within written indenture.

J. L.
T. J.

To these indentures it is sometimes usual *Apparel for* to add a clause for the master at the end of *apprentices.* the term, to provide for his apprentice two suits of apparel; one for *Sundays*, and the other for working days; and masters may not take away apparel from apprentices, tho' they part with them. *Bro. Tres. 93.*

Mayors, bailiffs, or other head officers of *Authority of* corporate towns, have in their several pre- *mayors, &c.* cincts like authority, as the justices of peace have in counties, for all the uses and purposes in this act: And so hath every alderman of a ward in the city of *London.* *Stat. 43 Eliz. c. 2.*

Justices may discharge an apprentice, and *Apprentices,* order a restitution of money given where *for what* the fault is in the master, as negligence in in- *cause dis-* structing his apprentice in his trade, not al- *charged.* lowing him necessities, beating him unreasonably, &c. *Hawksworth's case, 25 Car. 2.*
Kib.

Reb. 6. If the fault be in the apprentice, he may be sent to the house of correction, by *Stat. 5 El. c. 4.*

How apprentices go on a master's death.

Lessee for years of a farm takes an apprentice, and the term expires before the apprenticeship is ended, he must go with the farm, if his master will permit him; but where a man taketh an apprentice by reason of his ability, and the matter dies before the end of the apprenticeship, he shall go to the executor or administrator, if he hath assets; and if none, then he must return to the parish where last settled. *Show. Rep. 405.*

Apprentices to sea-service.

Besides the statutes aforementioned relating to apprentices, the *Stat. 2 Ann.* requires the placing forth poor apprentices to the sea-service.

Who may be put out.

Two justices, mayors, or chief magistrates of towns, &c. or church-wardens and overseers of the poor, with the consent of two justices, &c. may place out boys of ten years of age, and upwards, (by an act since made, 13) likely to be a charge to the parish, whose parents are chargeable; and those who beg for alms, to the sea-service, till they come to the age of one and twenty years; and 2 l. 10 s. is to be given with each boy by the church-wardens and overseers, to provide clothing and bedding, which will be allowed in their accounts. 2 *Ann. c. 6.* Boys are to be sent to the port likewise at the charge of the parish, in the same manner as vagrants. 11 & 12 *W. 3.*

By church-wardens and overseers, &c.

Masters of ships to take them.

Every master or owner of a ship from 30 to 50 tons, not taking one such poor boy apprentice; one more for the next 50 tons, and one more for every 100 tons above the first

100, shall forfeit 10 *l.* to the poor of the parish from whence the boy was to be bound.

Stat. 2 Ann. c. 6.

Church-wardens are to send the counter-*Indentures* part of the indenture to the collector of the *how executed.* customs, in the port to which the master belongs; it must be sealed by the master, in the presence of the collector and constable there, and be attested by them, and afterwards returned to the church-wardens: But such collector must first enter it in a book, and indorse on the indenture that 'tis registred, and subscribe his name without fee, or he shall be liable to the penalty of 5 *l.* to the use of the poor. *Ibid. Stat.*

Collectors at their ports are to keep a re-*Collectors of* gister of the names of masters and apprentices, and from what parishes they came; the *ports to keep* number and burden of all ships and vessels, *registers, &c.* &c. and transmit true copies thereof to the quarter sessions when thereunto required.

These apprentices shall not be pressed, 'till they are 18 years of age; but then they may be pressed, and the masters shall receive their wages.

Parish boys bound apprentices, according to *Apprentices* 43 *Eliz.* may at the request of the master, &c. *turned over* and with the consent of two justices, be turned *to the sea-* over to masters and owners of ships, for the *service.* remaining time of their apprenticeships, by indenture of assignment: And the widows of *Assignment of* masters of ships may assign over their poor *apprentices.* apprentices to other masters. In other cases, a poor child bound apprentice cannot be legally assigned to another master. 1 *Salk.* 68.

Two justices, &c. near the port where *Complaints* any vessel shall arrive, have power to hear *determined.* and determine all complaints of hard usage
to

to those apprentices; and to make orders as between masters and servants. *Stat. 2 Ann. c. 6.*

Apprentice assigned not good.

The assignment of an apprentice, though with his consent, will not make him an apprentice to the assignee, within the *Stat. 5 Eliz. c. 4.* But in the city of London, by the custom, such assignment is good. *3 Keb. 519.*

Justices power in discharging apprentices.

Justices of peace have consuance of apprentices bound by private persons, as well as by overseers of the poor: And justices may discharge such an apprentice, if the fault be in the master. The justices cannot punish a bad master, though they may discharge the apprentice; but they may punish a bad apprentice, &c.

And punishing them at the sessions.

On complaint of an apprentice, one justice is to bind the master over to the next general sessions, and four justices there are to discharge the apprentice; and upon complaint of the master, to send the apprentice to the house of correction, if he will not appear at the sessions, and abide the order of the justices. *Skin. 98.*

Actions for detaining apprentices, &c.

An action of trespass will lie for taking an apprentice out of his actual service; and for enticing him out of his master's service, or to take money, or play, or detaining a hired servant, an action of the case will give remedy. *Noy 105.*

Setting up trades.

By *5 Eliz.* none shall set up any trade who hath not served seven years apprenticeship: but apprentices going into the army might do it in the county where born, by *Stat. 10 & 11 W. 3.*

Two justices of peace, mayors, or other *Of Ser-* head officers of any city, borough or town *vants, &c.* corporate, may warn all single persons under *Persons com-* the age of thirty, to go to service at a time *pellable to go* prefixed; and any woman upwards of *to service.* twelve, and under forty years old, being unmarried, they may compel to go to service.

If such person neglect to go to service, *Punishment* and continue to live idly, having no visible *on refusal.* estate, they may be sent to the house of correction, or be bound over to the sessions, and to be of the good behaviour in the mean time.

Stat. 5 Eliz. c. 4.

Justices of the peace in their *Easter-sessions, Wages of ser-* or within six weeks after, mayors, *&c.* are *vants, labou-* to limit and assess the wages of servants, la- *rers, &c. set* bourers, workmen, *&c.* under the penalty of *by justices.*

10*l.* on every justice being absent, and not having some reasonable excuse. *Stat. 5 Eliz.*

c. 4. Labourers and workmen working by the day, week, month or year, or taking work by the great, are within the statute; and sheriffs and mayors, *&c.* are to proclaim the rates. *Stat. 1 Jac. 1. c. 6.*

If justices in sessions make an order for *Exception of* the payment of servants wages, it is good, *coachmen, &c.* by reason they have power to compel the service; but for the wages of a coachman, or the like, they have no power to make an order, because they cannot oblige a man to serve in that capacity. And one *Ryecroft, a* *Middlesex* justice, had 30*l.* damages recovered against him for making an order for the payment of a seaman's wages. *T. Jones's* *Rep. 47.*

If

Masters giving more.

Servants taking more.

If a master gives more wages than set by justices, he forfeits 5*l.* and may be committed for ten days without bail : And a servant taking more wages, shall be committed for one and twenty days : But a master may reward a servant as he pleases, so as it is not by way of contract on the retainer. *Stat. 5 Eliz. c. 4.*

Labourers not finishing work.

If a labourer or servant depart before he has finished his work agreed to be performed (except for non-payment of wages, or with leave of the master, or being taken into the king's service) he is to be committed for a month without bail, and to forfeit 5*l.* *Stat. 5 Eliz. c. 4.*

Servants refusing to serve for statute wages.

If a servant refuse to serve for the wages appointed by justices ; or having promised to serve, shall not comply, he shall be committed until he gives security for his service ; and if a servant depart before the end of his term, being hired for a year, without cause allowed by a justice, or after his term is expired, without giving a quarter's warning, two justices may commit him without bail, till he give security to serve for the time agreed on. *Stat. 5 Eliz.* And by the statute 7 *Jac. 1. c. 4.* one justice may send him to the house of correction, there to be punished as a disorderly person.

Or leaving masters without quarter's warning.

Masters putting away servants.

A master likewise cannot put away a servant before the end of his term, without some reasonable cause, to be allowed by one justice ; nor after the end of the term, without a quarter's warning given before witness ; if a master discharges a servant otherwise, he is liable to a penalty of 40*s.* *Stat. 5 Eliz. c. 6.*

A servant ought not to be discharged by *Sickness, &c.* reason of sickness, or any other disability by *no cause of* the act of God; nor may his wages be abated *discharge, or* those causes. *Dalt. 129.* *abating*

But both master and servant may part by *wages.* consent; and then the allowance of the cause *Parting by* by a justice of peace is not necessary. A *consent.* master's detaining wages, or not allowing sufficient meat, drink, &c. is good cause for a servant's departure; but it must be allowed by a justice. *Dalt.*

If a master puts away his servant, he shall *How wages* have wages to the time he served; but if the *paid on part-* servant depart himself before the end of his *ing.* time, he loses all his wages.

If a servant be retained a year, according *On the death* to the statute, and the master dieth within *of a master.* that time, the executors must pay the wages; *Contra*, if the retainer was not for a year. But all retainers and promises for payment of wages, contrary to the statute, are void. *Stat. 5 Eliz. c. 4.*

A servant or workman assaulting his ma- *Servants* ster may be bound to the good behaviour by *assaulting* one justice; or two justices may commit him *masters.* for a year or less at their discretion. *5 Eliz.*

And if any servant shall purloin or make away *Purloining* with his master's goods to the value of 40 s. *goods.* it is felony. *Stat. 12 Ann.*

If a woman with child procure herself to *Servants* be retained with a master who knows nothing *with child* thereof, this is good cause to discharge her *retained.* from her service; if she be gotten with child during her service, it is the same thing; and if the term be ended, or she lawfully dis- *How pro-* charged, the master is not bound to provide *vided for.* for her; but 'tis a misfortune laid upon the parish,

*What the
master is
to do.*

parish, which they must bear as in cases of casual impotency. Resolved Anno 1633.

The master not having legally discharged his house of such a servant, he must provide for her till her delivery, and one month after; and then she is to be sent to the place where last legally settled. *Dalt.*

*Servants
marrying.*

If a woman servant marrieth, she is obliged to serve out her time; and if both man and wife agree to serve, they must perform the agreement. *Dalt.* 92.

*An agree-
ment between
a master and
a servant.*

Memo-andum. It is agreed this day, &c. between *A. B.* and *C. D.* in manner following, viz. That he the said *A. B.* shall and will receive the said *C. D.* into his house and service for the term of one whole year, from the date hereof; and provide for the said *C. D.* competent and sufficient, meat, drink, washing, and lodging; and also pay and allow unto him the said *C. D.* the sum or wages of 5 *l.* he the said *C. D.* continuing in the service of him the said *A. B.* during the said term: And the said *C. D.* promises and agrees with the said *A. B.* That he the said *C. D.* shall and will, for the considerations aforesaid, faithfully serve him the said *A. B.* in the business and service of, &c. for and during the said term of one year, without absenting from the same, or imbeziling any of the money or goods of the said *A. B.* or any wife disclosing the secrets of his said master. *In Witness* whereof the parties aforesaid have hereunto set their hands, &c. the day and year above written.

*Of ba-
stards.*

As bastards are frequently chargeable to parishes; I shall take some notice of them.

All

All children born out of lawful wedlock, *Who are bastards.* are bastards: And issue born before marriage, tho' the parties afterwards intermarry: Issue by a second wife, the first living; the Issue of persons divorced; children born during marriage, where a husband is apparently incapable, or under the age of fourteen; children born after a husband has been some years beyond sea, or not within the four seas during the woman's being with child, are likewise bastards. 47 Ed. 3. 18 H. 6. Co. Lit. 235. Roll. Abr. 358, &c. 4 H. 6. 3. Ney 142.

But issue born forty weeks and eight days *Time of legi-* after the departure or death of the husband, *timacy in* is no bastard. Cro. Jac. 451. *Alfop v. Bow-* birth. *trell.* Though by Lord Coke forty weeks is the latest time for the birth of legitimate issue. 1 Inst. 123. b.

Where a bastard is begotten on a woman, *Proceedings* she is to be examined upon oath by a justice of *where a ba-* peace; and on her swearing to the reputed *stard is be-* father, the justice shall issue out his warrant *gotten.* for taking him; and when the person appears before the justice, he is to enter into re- *The woman* cognizance with sureties, and to be of the *examin'd, &c.* good behaviour, till order be made by two justices. Dalt. 39. 1 Salk. 380.

Middlesex, ff. **T**HE examination of E. B. *The exami-* single woman, taken be- *nation of a* fore me T. D. Esq; one of his majesty's ju- *woman with* stices of peace for the said county, this *child of a ba-* day and year, &c. who on her oath saith, *stard.* she is a hired servant to M. F. of, &c. and that in the month of May last, as she this *examinant* was making one of her master's beds, in, &c. room of his house, A. T. a *I* mercer,

Church-wardens and

mercier, living the next door, came into the said room, no other person being present, and promising great kindness to this examinant, prevailed with her, and then had the carnal knowledge of her body, once on the said bed, and hath had the same three several times since; and that at one of the said times he the said *A. T.* got her with a bastard child, with which she is now pregnant, and near the time of her delivery: And this examinant farther upon oath saith, that the said *A. B.* is the only true father of the said bastard, with which she is now pregnant, as aforesaid; or of which she was delivered on, &c. (if after delivery.)

*Sworn the day and year
aforesaid, before*

E. B.

T. D.

Order of justices for relief of the parish.

Persons able to keep the child.

The father may maintain the child himself.

When the child is born, two justices (*Quorum unus*) who are next the place, are at a private meeting to examine the matter, and make an order for the punishing the father and mother, the relief of the parish in part, or in all, and charging the parents with payment of money weekly, for maintenance of the child: But a bastard of a person able to keep it, and not likely to become chargeable to the parish, is not within the statute. *Stat. 18 Eliz. c. 3.*

Justices have no power but to indemnify the parish; that is, only to oblige the putative father to maintain the child as long as it is, or may be, chargeable to the parish; for the father may take the child when he pleases, and maintain it himself; wherefore orders for payment of money weekly, 'till the child attains

tains a certain age, have been quashed.
1 *Saund.* 82. 1 *Salk.* 121, &c.

A constable having arrested the reputed father of a bastard child, let him escape, whereupon the justices made an order that the constable should pay 3 *l.* towards the expences the parish had been at, and 1 *s.* a week, and the mother 6 *d.* a week towards maintaining the child; but the order was quashed as to the constable, because the justices had no such authority. *Mich.* 11 *Ann.* *The Queen against Jefferies.* But he might have been indicted for the escape.

Although none but the justices of peace have power to adjudge who is the putative father of a bastard child; yet if the justices are unreasonable in appointing provision for the child, as if they appoint but 2 *d.* a week, &c. the court of *B. R.* will judge of that.
2 *Sid.* 361.

In the drawing of orders in these cases; the order must be concerning a bastard, and so expressed; it must contain a positive adjudication who is the reputed father; and that the child is likely to become chargeable to the parish; the justices may order the father or mother to maintain the child, and no other person; one of the justices must be of the *Quorum*, and both, at the time they make their order, in the county for which they are justices; it must appear by the order, that they are the justices next to the parish where the bastard child is born; and that the child was born in the parish, to which the money is ordered to be paid.
Style 154. 1 *Vent.* 37, 310. *Cro. Car.* 213. 1 *Keb.* 383.

*An order of
justices for
maintaining
a bastard
child.*

W Hereas *M. A.* was on or about, &c. last past delivered of a bastard child in the parish of, &c. which is now living, and likely to become chargeable to the said parish: *And whereas*, upon due examination, on oath, it appears, that *A. B.* of, &c. is the father of the said bastard child: Now we *T. D.* and *J. S.* of, &c. Esqrs. two of his majesty's justices of peace for the county aforesaid, and living nearest the said parish of, &c. For the relief of the said parish, and maintenance of the said bastard child, do, according to the statutes in that case made and provided, order the said *A. B.* to pay weekly and every week from the time of the birth of the said child, and so long as it shall be chargeable to the said parish of, &c. unto the church-wardens or overseers of the poor of the said parish for the time being, the sum of, &c. for and towards the maintenance of the said child: *And we do hereby farther order*, that the said *M. A.* shall pay weekly, and every week, for so long time as the said child shall be chargeable to the said parish of, &c. as aforesaid, and she shall not keep the same, the sum of, &c. to the church-wardens, &c. of the said parish for the time being, for the farther maintenance of the said child: *Or*, that she the said *M. A.* shall be sent to the house of correction, and there kept to hard labour, &c. (If she be not able to contribute to the maintenance of the child). *And lastly*, we order, That the said *A. B.* &c. do, upon notice of this our order, forthwith give sufficient authority to the church-wardens and overseers of the said parish of, &c. well and truly to do and perform

perform what is ordered as aforesaid. *In Witness, &c.*

It is said, that two justices cannot order the reputed father to give security for performance of their order, before he hath made default in obeying it: And an order made without complaint of the parish officers, is not good. *What orders not good.*
Blackerb. Cases 44, 45.

The putative father may appeal from the order at the next sessions, if he hath good cause: And upon the appeal, the sessions will either affirm or quash the order of the two justices: And in case the two justices cannot agree in making their order, it may be referred to the sessions. If the reputed father brings an appeal against the order, he must enter into a recognizance for his appearance at the sessions, to have the matter determined: Not giving security to the parish, and refusing to enter into such recognizance, the two justices making the order, may commit him. *Appeal to sessions, when may be brought.*
Stat. 18 Eliz.

If justices of peace in their sessions, revoke an order of two justices for keeping a bastard child; and no father can be found, they are liable to keep the child themselves. *Orders revoked, &c.*
Vent. 59.

If a child dies after the order is made, and before the next sessions, and no security be given to perform the order; yet when the party appears at the sessions, the justices may order him to pay the charges, upon proof of serving the order. *Child dying.*

And an order made to pay such charges as the parish had been at, without saying, that the child was likely to be chargeable, &c. was held good. *Charges to be paid.*
1 Vent. 37.

*Late statute
concerning
bastards.*

6 Geo. 2.

c. 31.

By a late statute, a single woman delivered of a bastard in any parish or extraparochial place, or declaring herself to be with child; on oath before a justice, charging any person with getting it, he may issue his warrant to apprehend the reputed father, to give security to indemnify the parish, or enter into a recognizance with surety to appear at the next quarter-sessions, and to perform such order as shall be made in pursuance of the act 18 Eliz. and not doing it, the justice is to commit him to the common gaol, or house of correction, &c.

*In what
cases the man
discharged.*

But if such woman die, or be afterwards married, or if she miscarry, or it happens she was not with child; or if no order be made in six weeks after her delivery, the man shall be discharged by the justice: And no justice may compel any woman before delivered, and one month after, to answer questions. Stat. 6 Geo. 2. c. 31.

*Paying a sum
to indemnify
the parish.*

If the father of a bastard child pay a competent sum of money in gross to the overseers of the poor, for maintenance of the child, he shall be discharged; and the overseers are to release him: But if he do not pay such a sum, he may give bond to the church-wardens and overseers to indemnify the parish; and if the child then become chargeable to the parish, the justices may not intermeddle; but the parish must sue the sureties on the bond.

*A condition
of a bond
given to*

WHEREAS M. A. of, &c. single woman, upon examination lately taken before, &c. one of his majesty's justices of the church-wardens and overseers of the poor, for indemnifying the parish from a bastard child.

peace

peace for the county of, &c. aforesaid, hath declared and affirmed upon oath, that she is great with child, (or hath been lately delivered of a bastard child,) and that the above bound *A. B.* is the father of such child or children she now goeth withal: *And whereas* the said child or children when born, may become chargeable to the parish of, &c. aforesaid: *If therefore* the said *A. B.* and the above bound *E. F.* and *G. H.* or either or any of them, their, or either or any of their heirs, executors or administrators, do and shall from time to time, and at all times hereafter, fully and clearly exonerate and discharge, or otherwise well and sufficiently save and keep harmless and indemnified as well the above named *J. K. L. M.* and *N. O.* Churchwardens and overseers of the poor of the parish of, &c. aforesaid, and their successors for the time being, and every of them; as also all the inhabitants and parishioners of the said parish of, &c. which now are, or hereafter shall be, and every of them, of and from all and all manner of expences, damages, costs and charges whatsoever, which shall or may at any time hereafter arise, happen, come, grow, or be imposed upon them, or either, or any of them, for or by reason or means of the said *M. A.*'s being now great with child as aforesaid; or for or by reason and means of the birth, maintenance, education, and bringing up of such child or children that she the said *A. B.* now goeth with; and of and from all other troubles, charges, damages and demands whatsoever concerning the same; then this obligation to be void, or else to remain in full force and effect.

*Not giving
Bond, &c.
Order to be
made. And
not obeying
the order,
parties pu-
nished.*

If the party do not give such a bond of indemnity, the two justices are to proceed in the making their order, for the security of the parish; and if after the order made, the reputed father and mother having notice thereof, shall not perform the same, the party making default, shall be committed 'till security be given for the performance of the order, or to appear at the next quarter-sessions. *Stat. 18 Eliz. c. 3.*

*Goods, &c.
to be seiz'd.*

Church-wardens and overseers of the poor where a bastard shall be born, may by order of two justices seize goods, and receive rents of the lands of the reputed father and lewd mother towards the discharge of the parish; which order being confirm'd in the sessions, the church-wardens may sell the goods, &c. *Stat. 24 Car. 2. c. 12.* Though this is seldom done but where a party withdraws himself clandestinely.

*Where the
father ab-
sconds. Cor-
poral punish-
ment when
inflicted.*

Two justices may inflict a corporal punishment upon the reputed father, not being of ability to discharge the parish, by whipping. *Stat. 18 Eliz. c. 3.* And by the statute 7 *Jac. 1.* the justices may commit lewd women to the house of correction, who have bastards that may be chargeable to the parish, there to be punished and set at work for a year.

*Discharging
the parish
exempted
from it.*

But if the woman will discharge the parish, she cannot be punished by this last act; yet, by virtue of 18 *Eliz.* she may be punished by whipping: But a woman is not to receive any punishment till she is delivered. *Dalt. 41.*

*Permitting
the reputed
father to
escape.*

Officers negligently suffering an escape of the reputed father; and any person who shall persuade or convey away the reputed father

father or mother, may be bound over to the sessions by one justice, and there be ordered to contribute towards the maintenance of the child; but it hath been held in a late case, that the justices have no authority to do this; though such persons may be indicted and fined.

Vide antea, fo. 171.

Justices in corporations, &c. are to put the *Concealing* acts in execution relating to bastardy as justices *death of ba-* in the counties, &c. And it is murder for *stards, &c.* a woman to conceal the death of her bastard.

3 *Car. 1. c. 4.* 21 *Jac. 1.*

If any person shall conspire to charge another with a bastard child, he may be indicted, *Defamation* and a woman wrongly charging a man with *in relation to* getting a bastard upon her body, was committed to the house of correction for life. *bastardy.*

Pascb. 13 Car. 1. The usual punishment of these offenders, is public whipping, &c.

1 *Vent. 305.*

Bastards, having in the eye of the law no father, gain a settlement by their birth. *How ba-* They are to be placed with their mother 'till *stards settled.* seven years of age; and then be sent to their place of birth, the mother or reputed father not being able to provide for them.

And if two justices order overseers of any parish, to raise money towards maintaining a bastard, or poor person, it doth not deter- *Relieving* mine their settlement in that parish; for that *them makes* right is not contested. *no settlement.* *Hill. 7 Ann.*

We have several laws in force to confine *Of settle-* men to certain places of settlement, and *ments.* habitation; and by statute, every parish is *Parishes to* obliged to provide for its own poor. 43 *Elix. provide for* *cap. 2.* *the poor.*

Children settled where born. If a father has a legal settlement in a parish, the child is settled where the father is; but if the father has no legal settlement, then the child gains a settlement in the parish where born. 2 *Bulst.* 351.

Of parents wandering. If parents of poor children die wandering and *in Transitu*, the children are to be provided for by the parish where they were born; for the place of birth is a certain settlement, and parents wandering with them afterwards will not alter the case. *Bulst. Re.* 351.

Where child settled, there to continue. But if a child be duly settled in a place with father or mother, and they die or run away from thence, it must there continue; and may not be sent to the place of birth. *Lamb.* 207.

Settled with parents. Children shall be sent to, and settled with the parents: And children above seven years of age, found begging, and vagrant with the parents, are to be sent to *Bridewell* with them; if under, to the place where they last passed through without punishment.

Children born in prison excepted. If a woman with child sent to the house of correction, be there delivered, the child shall not gain a settlement in the parish where born; but the parish where the mother dwelled when sent to the house of correction, shall provide for the child. 2 *Bulst.* 358.

Woman with child committing felony. If a travelling woman, having a small child sucking on her, is apprehended for felony, and tried, condemned, and executed, this child is to be sent to the place of its birth, if that can be known; if not, to the place where the mother was taken. *Dalt.* 158.

Where

Where a child is brought from one parish *Children* to another, without legal authority, it may *brought from* be returned back by a warrant of the justices, *one place to* though not settled at the first place. And *another il-* where any poor child is first known to be, *legally.* that parish must provide for it, 'till they find another to which it may be lawfully removed.

Comber. 364, 372.

'Till seven years of age, children are ac- *Nurse chil-* counted nurse children. If a poor man set- *dren under* tled at *A.* marries a poor woman who is set- *seven years* tled at *B.* and has children by a former hus- *old.* band, the wife shall be sent with him to *A.* and also the children under seven years old, *How settled* but only for nurture; so that they shall be *on removals,* kept at the charge of the parish from whence *&c.* removed: And the children, above seven years of age are not removeable. *2 Salk. 470, 482.*

A wife is to be sent to, and settled with *Wife settled* her husband; and though he be at the Place *with her* but as an inmate or servant, she shall be settled *husband.* with him: But if a husband hath a house in one parish, and live there by night, and is a covenant servant to a master in another parish, *Taking a* where he is all the day; in this case his wife *house makes* and children shall continue in the first place, *a settlement.* where they are settled; though if the husband take a house in the last parish, they must be settled there with him. *Dalt.*

The law unsettles none who are lawfully *Persons eject-* settled; nor permits it to be done by com- *ed, not alter* pulsion, &c. A man having a wife and *the settle-* children, takes a house in the parish of *B.* *ment.* for a year; and in that year he is wrongfully turned out of possession; whereupon he takes a house in the parish of *C.* from which he is also ejected in a short space; and thereby wanting a place to live in, he gets in a barn
in

in the parish of *D.* and there his wife is delivered of another child; in this case they are all to be sent to the parish of *B.* out of which they were first illegally forced. *Resol.* 1633.

Nor where hindered to take a house.

If any person by indirect means, hinder a poor man from hiring a house, he may for such disturbance, be indicted. It is fineable to remove or put any out of the parish, who ought not to be put out; and the persons so removed may be conveyed back. *Dalt.* 98.

What persons not to be removed.

If a man have an estate in a parish, he cannot be removed from thence though he is likely to become chargeable, let him be settled where he will. 5 *Mod.* 419. But see the Statute 9 *Geo.* 1. c. 7. And persons whose interest in houses or lands is determined, cannot be put out of the town where legally settled, but they shall be relieved or set on work there, unless they commit an act of vagrancy, when they may be sent to the place of their birth. *Dalt.* 158.

Forty days a settlement.

The statutes relating to settlements, are the 13 & 14 *Car.* 2. 3 & 4 *W. & M.* 8 & 9 *W.* 3. 12 *Ann.* &c. By the statute 13 & 14 *Car.* 2. c. 12. when any poor person came to settle in a parish in a tenement, under 10 *l.* per ann. upon complaint by the church warden and overseers of the poor to any justice of peace within 40 days, two justices might by order remove him to the place where he last dwelt for forty days; which shews that 40 days made a settlement before this act.

*Persons renting under 10 *l.* a year, to be removed.*

But the 40 days were to be accounted from the time of public notice given to the church-wardens or overseers in writing of the place of his abode, and number of his family;

Notice of persons coming into a parish.

family; and their publishing of it likewise.

Stat. 3 & 4 W. & M.

This notice was to be read in the church *To be published by the overseers or church-wardens, the next Sunday after divine service, under the penalty of 40s. The like penalty for neglecting to register such notice, to be levied by distress, &c. And for want of distress, to be committed for a month without bail. Stat. ibid.*

But persons renting 10*l.* a year; executing upon their own account any publick yearly office, or charge for a year; paying to the poor's rate, or any share of taxes of the parish, (unless it be the king's tax;) unmarried persons not having children, hired as servants for a year; and persons bound apprentice, and inhabiting in a town, are excepted out of this act, and gain a settlement without giving notice as aforesaid. *Stat. 3 & 4 W. & M. c. 11.*

A person rents two tenements of 5*l.* per *Ann.* each, he thereby gains a settlement: *By renting estates in houses, &c.* But if a man rent a piece of land of 10*l.* per *Ann.* and there is no house belonging to it, it is otherwise. *Hill. 1710.* In case a person rents 14*l.* a year, but it lies in two parishes; it makes a settlement where he resides.

By *Parker* chief justice, renting a tenement of 10*l.* a year, for a month, is a fraudulent renting; but if one rents a house of 10*l.* per *Ann.* and continues forty days, he gains a settlement, within the meaning of *13 & 14 Car. 2.* *And continuing forty days.*

A man, who is chose parish clerk by the parson, and receives his fees and duties, cannot *Serving a parish office.*

not

not be removed if he continues there a year; for it is a parish office. *Mich. 1711.*

*Settlement
of servants.*

In respect to servants, it must be one intire hiring, and one intire year's service, in pursuance of that hiring, that can gain the party a settlement, by force of the act, 3 & 4 *W. & M.*

*Hiring for
a year.*

A servant being hired first from *Lady-day* to *Michaelmas*, and then to *Lady-Lay* following; it was adjudged he had a good settlement, there being an intire hiring for a year, though different times were mentioned. *Hill. 10 W. 3.*

*Persons hired
marrying.*

An unmarried person hired for a year, married before the year was expired; it was held, that he could not be removed, and that upon performing his service he would gain a settlement. *2 Salk. 527.*

*Turning
away.*

And if a maid servant hired for a year, be turned away on account of sickness before the year expired, she nevertheless obtains a settlement there. *Style 168.*

*Master li-
ving at seve-
ral places.*

A servant being hired at *A.* for a year, his master lives there half a year, and then lives at *B.* another half year; adjudged the servant is settled in the last place; for the statute doth not tie the service down to one place. But if a person be hired as a servant to work in a boat for a year, which plies between one place and another; by such service and hiring, he gains no settlement. *Pasch. 4 Geo. 2.*

*Extraor-
dinary case
of servants.*

*Servants to
lodgers, &c.*

A person is a lodger in a parish, yet his servant acquires a settlement: And servants to lodgers and visitors, gain a settlement in the parish where they continue to serve, &c. *Mod. Caf. L. & E. 50.*

If

If one, who is a lodger only in a parish, *Apprentice to* and hath no settlement there, takes an ap- *one a lodger.* prentice; the apprentice gains a settlement, though the master has none, for the settlement of the apprentice does not depend on the master's, as that of a wife does on her husbands. *Parish of St. Brides.*

When a person is bound apprentice by in- *Continuing* denture, where-ever he continues forty days *forty days* in the service of his master, there such ap- *makes a* prentice gains a settlement; and where any *settlement.* person serves the last forty days of his apprenticeship, that is the place of his last legal settlement. *Hill. 4 Ann. B. R.*

An apprentice served two years in one *Serving in* parish, and was by agreement turned over to *two parishes,* a master in another parish, and there served *settled at last.* out his time: This was held a good settlement in the parish where he last served. *Trin. 9 Geo. 1.*

A person was sent by order of Justices to *Persons sent* an extraparochial place of settlement, he ha- *to extraparo-* ving served seven years apprenticeship there: *chial places.* By *Holt C. J.* If a place be extraparochial, and has not the face of a parish, the justices have no authority to send any one thither. *2 Salk. 486.*

But by virtue of the statute 13 & 14 *Car. 2. Settlements* concerning settlements, the justices may exer- *in villoges* cise the powers given by 43 *Eliz.* in all ex- *and towns.* traparochial places containing more houses than one, so as to come under the denomination of a village or town. *Salk. ibid. and see Stat. 6 Geo. 2. c. 31.*

No settlement can be legal in any parish, *When no* when the residence of the party is obscure, *settlement* and uncertain; or where a person is under gained. disturbance by officers. *3 & 4 W. & M.*

By

*Certificates
on persons
removal
to another
parish.*

By the statute 8 & 9 W. 3. c. 30. a poor man may remove from one parish to another, having a certificate under the hands and seals of the church-wardens and overseers of the poor, or under the hands and seals of the overseers, where there are no churchwardens, acknowledging the person therein mentioned to be an inhabitant legally settled in their parish; which certificate being attested by two witnesses, and allowed and subscribed by two justices, shall oblige the parish to receive the person, &c. when he shall become chargeable, &c.

*Settlement on
such certifi-
cate, &c.*

But no person who shall come with such certificate shall have a legal settlement in the parish, unless he *bona fide* take a lease of a tenement of 10 l. *per Ann.* or shall be placed in, and execute some annual office. Stat. 9 & 10 W. 3. c. 11.

*Apprentices,
&c. to persons
by certificate.*

And he, who shall be an apprentice by indenture, or a hired servant to one, who comes into a parish by certificate, not afterwards gaining a legal settlement there, shall not by virtue of his apprenticeship, indenture or binding, nor such servant, by being hired or serving such person, gain any settlement there. Ann 12. c. 18.

*Soldiers
wives and
children.*

Two justices, where any non-commissioned officer or private soldier having a wife and children, shall be quartered, may summon him to make oath of their last legal settlement; and a copy of the oath is to be delivered to the commanding officer, to be produced when required. If he shall be summoned again, on producing a copy of the oath formerly taken he shall not be obliged to take any farther oath. Stat. 19 Geo. 2. c. 11. §. 24.

Overseers of the Poor.

185

WE whose names are hereunder writ- *A certificate*
ten, church-wardens and overseers of *of a person's*
the poor of the parish of, &c. in the county *being a pa-*
afore said, do certify that *A. B.* labourer, the *rishtioner.*
bearer hereof, is an inhabitant legally settled
in our said parish of, &c. And we do here-
by oblige ourselves and successors to receive
the said *A. B.* and his family, whenever he
shall become chargeable to the parish of, &c.
by impotency, casualty, sickness, or other-
wise; to which said parish of, &c. the said
A. B. is desirous to remove for his better sup-
port and employment. In *Witness* whereof, we
have hereunto set our hands and seals, &c.

C. D. Church-warden.

<i>E. F.</i> }	Overseers.	<i>J. K.</i> }	Inhabitants.
<i>G. H.</i> }		<i>L. M.</i> }	

We *N. O.* and *W. R.* Esq; two of his
majesty's justices of the peace for the county
of, &c. afore said, do hereby allow of the
certificate above-mentioned. *Witness* our
hands.

N. O.

W. R.

N. B. The act 3 Geo. 2. requires an oath,
by witnesses, of the signing of certificates;
and justices to certify the same. Vide *Post*.

Some years since a question arose between *Extraor-*
two parishes in the county of *Northampton*, *dinary case*
upon an order removed into *B. R.* which *relating to*
was thus; A person, who was not legally set- *settlements.*
tled in the parish, but had lived there some
time, procured a certificate, by virtue of
which he went into another parish, where
he was an inhabitant with them; afterwards
being

Of a person removed on wrong certificate.

being poor, the parish from whence he came took him again; but upon inquiry found that he was never lawfully settled with them, but had gained a settlement in another place, before they gave this certificate; and thither they removed him by order. The parish, to which he was removed, appealed, because those, who had given the certificate, had owned him to be an inhabitant settled with them; but the certificate was held by the court to be only an evidence of a settlement; and thereupon the first order was confirmed. *Trin. 2 Ann. Salk. 530.*

Afterwards adjudged contra.

But it was adjudged *Mich. 9 Ann.* That a certificate concludes the parish giving it, not only against the parish to which it is given, but as to all other parishes; it being a solemn acknowledgment and adjudication. *Ibid. 535.*

Church-wardens, &c. refusing a person by order.

Church-wardens and overseers refusing to receive a person sent by order of two justices, forfeit $\frac{5}{12}$ l. to the use of the poor of the parish from whence the party was removed. *Stat. 12 Ann. c. 18.*

Appeals concerning settlements, Costs to be paid, &c.

But though they may not refuse a person sent by order, they and others aggrieved by any order of justices, may appeal to the next sessions of the county or place wherein the parish lies, from whence the poor person is removed, as I have already intimated; but on the appeal, the sessions may order costs to be paid by the overseers of the poor, or other person against whom 'tis determined; and it is the same on giving notice to a proper officer to appeal, and not prosecuting the appeal. The costs may be levied by distress and sale of the goods of the person ordered to pay it, by a justice's warrant; and if

no distress can be had, the party shall be committed to gaol for twenty days. 8 & 9 W. 3.

c. 30.

Church-wardens and overseers, for every *Overseers*, neglect and default in executing their offices &c. *neglect* relating to the poor, forfeit the sum of 20 s. *ing their duty*. to be employed to the use of the poor of the parish: The default to be proved either by confession or oath of one witness, and the penalty levied by the new church-wardens *Penalty*. and overseers, by distress and sale, by virtue of a warrant from one justice; and for want of distress, two justices may commit the offender till payment. 43 Eliz. c. 2. *Dalt.* 97.

The church-wardens or overseers of the *Statute* poor, where any wife, child or children, 5 Geo. 1. c. 8. shall be left on the charge of any parish, *Where wife* making application to, and by warrant from *or children* two justices of the peace, may seize so much of *left on a pa-* the goods and chattels, and receive so much *rish, goods,* of the rents and profits of the lands and &c. *of the* tenements of the husband, father, &c. *of husband or* such wife or children, as the justices shall *father to* direct, for the discharge of the parish, in *be seized*. providing for such wife or children.

And at the next quarter-sessions, the warrant of the two justices being confirmed, the justices in their sessions may make an order for the church-wardens or overseers to dispose of the *And sold by* goods or chattels by sale thereof; and also *order of ju-* to receive the said rents and profits of the lands *stices*. and tenements, or so much of them as they shall think fit.

And the church-wardens, &c. are to be *Subject to* accountable for all money as they receive, to *account*. the justices in sessions.

Justices

Statute

9 Geo. 1.

*c. 7. for providing houses, &c. for the poor.**All poor to be registered.**Houses for lodging and maintaining poor, and taking their work.*

Justices of peace are not to order relief to poor persons, until oath be made of reasonable cause; and that they had applied to the parishioners at some vestry or publick meeting, or to the overseers of the poor of the parish, and were refused to be relieved by them; and until the justice hath summoned the overseers to shew cause why relief should not be given. All persons ordered by justices to be relieved, must be registered in the parish-books, as those who are to receive collection; and no officer of any parish shall bring to the parish account, any money he shall give to the poor persons not registered in the parish books, on pain of 5 *l.* penalty, leviable by distress, by warrant of two justices, for the use of the poor of the parish. But there is an exception in the act, as to relieving persons upon emergent occasions.

Church-wardens and overseers of the poor, with the consent of the major part of the parishioners have power by this statute to purchase or hire any house or houses in the parish or place, and contract with persons for lodging, keeping and employing of poor persons; and there they are to keep them, and take the benefit of their work and labour, for the better maintenance and relief of such persons: And poor persons refusing to be so lodged, kept and maintained, are to be struck out of the parish books, and not be entitled to relief. Two or more parishes, where small, with the approbation of a justice of peace, may unite in purchasing or hiring houses for the aforesaid purposes: And the church-wardens or overseers of the poor of one parish, with the consent of the majority of the

parishioners, may contract with the churchwardens, &c. of any other parish, for the lodging and maintenance of poor. And no persons, or their apprentices, children, &c. shall acquire a settlement in the parish to which they shall be removed.

No person shall gain a settlement in any parish, by virtue of any purchase therein, for which the consideration doth not amount *bona fide* to 30*l.* for any longer time than such person shall inhabit in the estate purchased; and shall after be liable to removal to the place where last legally settled. Persons taxed to the highways, or on the scavengers rates, shall not acquire any legal settlement thereby in any town or parish where paid.

In case of appeals from orders for removal of poor; none shall be proceeded upon in the quarter-sessions, unless reasonable notice be given by the churchwardens or overseers of the poor of the parish making the appeal to the church-wardens, &c. of the parish from which such poor person shall be removed. If reasonable time of notice be not given, the justices may adjourn the appeal to the next quarter-sessions; and if the justices in their sessions, determine in favour of the appellant, they are to award so much money as shall be reasonably expended by the parish, on whose behalf the appeal was made, for the relief of the poor person, between the time of the undue removal and the determination of the appeal.

And this shall be recovered in like manner, as costs upon an appeal.

*A contract
for lodging
and main-
taining poor
persons.*

IT is contracted and agreed this ——— day of ——— *Ec.* between *A. B.* and *C. D.* church-wardens, and *E. F.* and *G. H.* overseers of the poor of the parish of, *Ec.* in the county of, *Ec.* and *J. K.* of, *Ec.* that he the said *J. K.* shall and will, during the term of, *Ec.* next coming, at his own proper costs and charges, in the house of, *Ec.* hired by the said *A. B.* and *C. D.* *Ec.* find, provide and allow, or cause to be found, provided and allowed unto and for *T. W. R. T. L. J. Ec.* poor persons of the parish of, *Ec.* aforesaid, sufficient lodging, meat, drink, and all other necessities for their and every of their keeping and maintenance; he the said *J. K.* being paid and allowed by them the said *A. B. C. D.* and *E. F. Ec.* the church-wardens and overseers of, *Ec.* aforesaid, the weekly sum of, *Ec.* for the same, which they the said *A. B. C. D.* and *E. F. Ec.* do hereby covenant for themselves and their successors, well and truly to pay, or cause to be paid to the said *J. K.* as the same shall become due; or he the said *J. K.* being allowed the work, labour and service of them the said *T. W. R. J. L. J. Ec.* from time to time, in such work and labour as he the said *J. K.* shall think fit to employ them about; which the said *A. B.* and *C. D. Ec.* the churchwardens and overseers of the poor aforesaid, do consent and agree he shall have accordingly. *Witness, &c.*

*Statute
3 Geo. 2.
c. 29. re-
lating to
certificates.*

The witnesses to certificates of church-wardens and overseers of the poor acknowledging

Oath to be made of signing certificates, &c.

ledging any poor person to be legally settled in their parish, are to make oath before the justices of peace directed to allow the same, that they did see the persons, whose names and seals are thereto, sign and seal the said certificate; and the justices shall certify that such oath was made before them, and thereupon the certificates shall be allowed as evidence in all courts, without farther proof, &c.

And when overseers of the poor of any parish remove back any certificate persons becoming chargeable to the parish to which they belong, they shall be reimbursed the charges in maintaining and removing such persons, being ascertained by a justice of peace, by the church-wardens or overseers of the poor of the parish to which removed. *Charges of removing persons reimbursed.*

On default of payment whereof, the same to be levied by distress and sale of their goods, by virtue of the justices warrant, &c. *Or levied by distress.*

For the new act 6 Geo. 2. c. 31. for relief of parishes against bastard children, see *Bastards.*

The most considerable work-house in the city of London, is that in *Work-houses.* Bishopsgate Street, set *for the poor.* up pursuant to the 13 & 14 Car. 2. By *In London,* which act power is granted for the president *under a president, governors,* and governors of this corporation, to purchase *&c.* or take any lands or tenements not exceeding 5000*l.* per Ann. and any goods or chattels, &c.

In this work-house, some hundreds of idle persons are constantly employed in beating of hemp, picking of oakum, &c. And as *Persons employed there- in, and how.* some

some are discharged, others are committed: But the greatest benefit arises from the poor children there maintained; who are religiously educated and employed in spinning of wool, knitting and sewing, &c. They are dieted and cloathed, and taught to read, write and cast account, whereby they are qualified for services and employments.

Vagrants, beggars, &c. The president, &c. of this work house is impowered to apprehend vagrants, sturdy beggars, &c. and set them to work.

In Bristol, a guardians, &c. By the Stat. 7 & 8 W. 3. a great work-corporation of house was erected in the city of *Bristol*, for the better employing and maintaining the poor; governed by a corporation, consisting of the mayor and aldermen, guardians and assistants, &c. who may raise money by a tax on the inhabitants, for the maintenance of the poor in the said work-house, not exceeding what hath been usually paid; they have power to hold courts for regulating the affairs of the

Their power to provide necessaries, &c. poor, and make by-laws for government; and to provide what necessaries they think fit for setting the poor to work; and compel idle people and beggars to dwell and inhabit in such work houses, and work there; also to keep poor children in order to be placed out apprentice.

And for all the poor. This corporation hath the care of and providing for all the poor of the said city; except such as are relieved by charitable gifts, hospitals, alms-houses, &c.

In Worcester by statute 3 Ann. In the third year of queen *Anne* a law was made for erecting a corporation to provide for the poor in the city of *Worcester*; and by this act the corporation is to consist of the mayor, aldermen, several of the common council, and others chosen out of each parish,

parish, &c. which corporation is empowered to hold courts, summon persons, &c. And also to provide materials for setting the poor on work; oblige idle persons and the poor receiving alms to dwell and work in the work-house, &c.

And they have power to contract with any parish in the county of *Worcester*, for the relieving, employing, and setting to work of poor persons. *Extends to whole county.*

By 13 *Geo. 1.* a corporation is established for the better providing for and setting to work the poor in the city of *Gloucester*; 13 *Geo. 1.* consisting of 31 guardians, chosen out of the several wards and parishes, at vestries held by the church-wardens and overseers of the poor, &c. The corporation may make by-laws for better government of the same, the revenues thereof, and for the maintenance of all such poor as shall be taken into their care, &c. And they are to charge how many weekly or other payments shall be needful for maintaining the poor in their work-houses, by certificate to the mayor and aldermen of the said city, who shall order the same to be raised and levied on the inhabitants. *Power of the corporation to make by-laws; raise money, &c.*

Also they may possess themselves of all the goods and effects of those who seek to them for relief, or that are brought into the work-house. *Goods of the poor.*

The 1 *Geo. 1.* enacts, that there shall be a corporation to continue for ever within the city of *Canterbury*, for the employing and maintaining the poor there; it consists of the mayor, recorder, and justices of the said city, and twenty-eight other persons elected out of the ablest inhabitants, two out of each parish; *In Canterbury, by 1 Geo. 2. a corporation, &c.*

*Rates and
assessments
made.*

*Blue-coat
boys.*

*Poor likely
to be charge-
able, re-
moved.*

*Hospital for
poor found-
ling children
in London.
Stat. 13
Geo. 2.
c. 29.*

*The children
employ'd, or
put appren-
tice, &c. or
bired out.*

parish: And they are to erect work-houses, and raise money by a rate or cess on the inhabitants, &c. The guardians may make allowance to poor persons who fall sick, or are antient, without compelling them to come into the work-house; and are to cloath and maintain sixteen poor blue-coat boys separate and apart, and cause them to be instructed in reading, writing, &c. who are to be put out apprentices, &c.

The corporation is to provide for all the poor of the fourteen parishes; and cause the church-wardens and overseers to complain to two justices of peace of the said city, in order to remove such poor as are likely to become chargeable, to the place of their settlement, &c.

Besides private hospitals, erected by virtue of the 39 *Eliz. cap. 5.* for the sustenance and relief of the poor, the heads whereof are incorporated and to continue for ever, such hospitals being founded by deed inrolled in the chancery; There is lately an hospital established in *London* by statute, for the maintenance and education of exposed and deserted young children.

The governors and guardians of this hospital, may purchase any lands or tenements to the value of 4000 *l.* a year, and erect or convert buildings purchased or hired to be an hospital for the reception of such poor children; and the corporation, or persons employed by them, shall receive, maintain and educate as many children as they think fit.

This corporation may employ, or put apprentice to any trade, or the sea-service, any male children till they attain the age of 24 years, and place out the females till 21:

They

They may also hire or let out such children ; and give them correction for misbehaviour.

Persons may bring children to this hospital, without being disturb'd therein by any church-warden or other parish-officer, on the penalty of 40 s. leviable by warrant of two justices ; And no overseer of the poor, &c. shall have any power or authority to inquire into the birth or settlement of such children.

Children to be brought to the hospital without disturbance by parish-officers.

But the children, nurses, or servants, shall not gain any settlement in the parish where the hospital is ; nor shall the parson or clerk, &c. there, receive any fee for these childrens christnings or burials. 13 G. 2. c. 29.

Not to gain any settlement, &c.

As to orders for removal, an order for removing a poor person to a place which the order mentions to be, as the justices are informed, the place of his last settlement, is not good, except it says the information is upon oath ; but if on appeal the order is confirmed, it is good. 5 Mod. Ca. 325.

Orders for removal of poor, how made, &c.

An order for removal of a poor person was quash'd because there was no judgment of the justices concerning the last legal settlement ; but only the oath of a woman, &c. 2 Salk. 485.

An order quash'd.

A settlement by order of justices in sessions upon an appeal is good and binding ; but if it do not appear that the cause came before the justices by way of appeal, it may be quash'd, for without that they have no jurisdiction. Ibid. 481.

Sessions order good on appeal.

If a poor family, after an order of sessions for their removal on appeal, return to the parish from whence they were removed, the sessions must see their order of settlement obey'd ; though if such poor family go into

Persons returning to be remov'd back by order.

another parish, not concerned in the appeal, two justices of the peace ought by an original order to remove them to the parish where they were settled by the sessions order. 2 Salk. 482, 489.

Orders binding, &c.

The order of two justices not appealed from, binds the parish upon which it is made, 'till a new settlement is gained. An order reversed is final only between the parties; but an order confirm'd, &c. is final to all the world. *Ibid.*

Defects in orders rectified on appeals.

On appeals to justices in their sessions, they are to cause defects in form in orders, to be rectified without charge, and then determine the matters, &c. And no *Certiorari* shall be allowed to remove the same into *B. R.* without entering into recognizance of 50 *l.* to prosecute with effect, and pay costs, if judgment affirm'd; and on refusal, or not performing it, the justices to confirm their order. Stat. 5 Geo. 2. c. 19.

An order to remove a person to his place of settlement.

W Hereas it appears to us *W. B.* and *J. S.* Esqrs. two of his majesty's justices of peace for the county of, &c. (the said *W. B.* being of the *Quorum*) on the complaint of *A. B. C. D. F. G.* &c. church-wardens and overseers of the poor of the parish of, &c. in the county aforesaid, that *L. J.* being on, &c. settled in the parish of, &c. is now come into the said parish of, &c. to endeavour to obtain a settlement in the said parish, not having done any act as the law requires, to make him a parishioner there, whereby he is likely to become chargeable to the parish of, &c. aforesaid. And whereas it appeareth by the oath of, &c. that the said *L. J.* was last legally settled at the parish of, &c. which we do

Overseers of the Poor.

197

do adjudge accordingly: *Now* we the afore-said justices do hereby order the said *L. J.* forthwith to remove and depart out of and from the parish of, &c. to the said parish of, &c. the place of his last legal settlement; and that in default thereof, you the constable of, &c. do convey him the said *L. J.* unto the said parish of, &c. and deliver him to the church-wardens and overseers of the poor there, or some or one of them; hereby also requiring you the said church-wardens, &c. of the said parish of, &c. to receive the said *L. J.* as your lawful parishioner, and provide for him accordingly.
Given, &c.

SURVEYORS, &c.

Of Surveyors of the Highways and Scavengers, their particular Business, &c.

BEFORE I come to the office of surveyors of the highways, I shall let you know what are highways, and what are private ways in the eye of the law.

What are highways by law.

And first, any cart, horse, or foot-way, common to all people, in the king's highway ; (whether it directly lead to any market-town or not) and a nuisance in any of the said ways is punishable by indictment. 6 *Mod.* 255. And if there be an highway in an open field, when the fields are bad in the winter, travellers may go on the outlets of the lands adjoining, being warranted by custom : For the king's subjects are to have a good passage, and such outlets are parcel of the way. 1 *Roll. Abr.* 390. *Dalt.* 98.

In

In a highway the king hath but the free passage for him and his people; but the freehold, and all the profits are to the lord of the manor, and he may have an action for eating the grass, or for trees taken away, &c. *Dalt.* 76.

A private way is that which leads from a village, &c. to the parish church, or fields, without any communication with a great road: which is to be repaired by the village or hamlet, and sometimes by a private person (*contra* of highways, the whole parish shall be charged). If such a way be out of repair, every inhabitant may bring an action; and for stopping the way to the church, they may have an action upon the case. *1 Vent.* 208.

All highways of common right are to be repaired by the inhabitants of the parish in which the way lies; unless there be some special matter to fix the repairs upon others; as where a person by an inclosure streightens a highway on both sides, though the parish repaired it before, yet now he is obliged to maintain it at his own charge; but if he lays open the inclosure, so that the way remains as it did before, then the parish is to repair it again. *Cro. Car.* 366.

Term. Pasch. 7 Jac. 1. It was resolv'd, That all the country ought to repair a highway where no particular persons are bound to repair, because the whole country have their ease and passage by it. *Co. Rep.* 13.

A person may be obliged to repair a way by tenure of lands; and lands have been often given for the maintenance of highways. See Statute 22 *Car. 2.* A particular person may be bound to repair a highway by pre-

What are private ways.

How both repaired of common right.

Particular persons bound to repair.

Surveyors of

scription; and so may a corporation. *Lanc. Rep.* 206.

King's commission to amend ways, &c.

The king by the common law might award his commission for amending the highways and bridges throughout the realm. *Dalt.* 77. And no highway can be changed, &c. without the king's writ of *Ad quod damnum*, and licence thereupon, on inquiry whether it will be prejudicial to the public, &c. *3 Cro.* 267.

Surveyors of highways appointed by statute.

But the statutes ordain, that for the repairs of highways, surveyors shall be yearly chosen in every parish, by constables, churchwardens, &c. and the inhabitants thereof, as appears by 2 & 3 *P. & M.* c. 8. And by the statute 3 & 4 *W. & M.* c. 12. Surveyors of the highways are to be chosen in the following manner.

How chosen, persons qualified.

On the 26th of *December* yearly, the parishioners are to assemble together, and make a list of a competent number of persons qualified to serve the office, *viz.* such as have an estate of 10 *l. per annum*, either in their own right, or in the right of their wives, or who rent 30 *l. per annum*, or are worth 100 *l.* in personal estate: And for want of such, a list must be made of the most substantial persons.

Lists of persons.

This list is to be return'd by the constables to two or more justices of the peace, at a special sessions, held the third of *January* following, or within fifteen days afterwards: Out of which the justices in their sessions, are to appoint one or more to be surveyors, &c. by an order under their hands and seals.

And a person appointed surveyor by the justices, not taking upon him the office, having

ving notice given by the constables in six *Persons* days, and being served with the order of *chosen*, not the justices, he is liable to the penalty of 5 *l. taking upon* one moiety to the informer, and the other to *them the office*, be applied in the reparation of the highways. *penalty.*

Stat. 3 & 4 W. & M.

Upon the refusal of the party nominated *Others elect-* by the justices in their sessions to be survey- *ed.* or, and paying the forfeiture of 5 *l.* (which is to be levied by warrant from the said justices, granted upon oath made of such refusal by one witness) the justices are to appoint some other fit person, who upon notice is to take upon him the office, under the like penalty.

The justices shall hold a special sessions in *Special ses-* their divisions, every year on the third of *sions to be* January, or within fifteen days after; of *held by ju-* which they are to give ten days notice to *stices.* all constables. And they are also to hold a sessions for the highways every four months, under the penalty of 5 *l.* *Stat. 1 Geo. 1. c. 52.*

At this sessions the justices may order the *Proceedings* reparation of those great roads which most *there. Stat.* want repairing in the hundred where the *1 Geo. 1.* sessions is held; which shall be first repaired, and in what time and manner. *Stat. Ibid.*

Surveyors of the highways are within four- *By surveyors,* teen days after the acceptance of their office, &c. *Present-* and so from time to time every four months, *ment.* to view the roads, &c. and to present upon oath, at the special sessions, such ways as are not in repair, or they forfeit 5 *l.* unless two justices shall allow their excuse. *Stat. 1 Geo. 1.*

*A present-
ment of a
highway's
being out of
repair.*

I *A. B.* surveyor to the highways of and within the parish of, &c. in the county of, &c. do hereby present, that the highway leading from, &c. to, &c. in the said parish, is very much out of repair, and dangerous to all travellers who pass that road, and that the inhabitants of the said parish of, &c. ought to repair and amend the same.

A. B.

*Notice of de-
faults in a-
mending
ways.*

They are to give public notice from time to time every four months, in the parish church, the next *Sunday* after sermon ended, of what defaults they find in the reparation of the ways; and if they are not amended by those who ought to do it in thirty days, then the surveyors must, within other thirty days next following, repair the same, and shall be paid the charges by the party who should have done the same.

*Surveyors
to repair, and
be repaid the
charges.*

In case, when notice is given as aforesaid, the party do not repair the ways in the time limited; and if the surveyors do amend them, and the party neglecting refuseth to pay the charges, then upon oath made of notice, &c. as aforesaid, the surveyors shall be repaid such expences as a justice shall think fit, to be levied by his warrant. *Stat. 3 & 4 W. & M.*

*Default in
sending teams,
&c.*

Surveyors not giving an account of the defects of highways, and of those who are bound to find labourers and teams, forfeit 5*l.* except the justices in their special sessions allow a reasonable excuse. *Stat. 1. Geo. 1. c. 52.*

They

They are to take the first seasonable time, *Days ap-*
to repair the ways before harvest; and to *printed to*
appoint six days for providing materials, *work with*
carriages, &c. giving notice of the days ap- *teams, &c.*
pointed; at which time, all persons liable
must work, and the ways are to be amended
before the feast of St. *Luke.*

Justices of peace must particularly express *Particular*
what days are appointed for working on the *days expres-*
highways; and not six days generally be- *sed.*
tween such a time and such a time, which
will be naught in an indictment. *Pasch. 2 Ann.*
B. R. Regina v. Kime, 2 Raym. 858.

Every person in the parish occupying a *Carriages to*
plough land in tillage or pasture, and every *be sent out*
other person keeping a draught or plough, *by whom.*
shall send out a wain or cart, furnished with
oxen, horses, or other cattle, and two able
men, every day appointed by the surveyor,
upon pain of 10 s. for every default. *Stat.*
2 & 3 P. & M. c. 8. 22 Car. 2. c. 12.

If all the carriages in the parish shall not *Penalty.*
be thought necessary by the surveyors, then
the person whose carriage is spared, is to send
out two able men to labour the days appoint-
ed, or shall forfeit 1 s. a day for every man
not sent. *Ibid.*

Every householder, cottager and labourer, *Cottagers,*
being no hired servant, must either work him- *&c. to work.*
self for repairs of the highways, or hire a
sufficient labourer to work each of the six
days, on pain of forfeiting 1 s. 6 d. per day.
22 Car. 2.

And by an antient statute, cottagers affec-
ted at 40 s. a year in lands, or five pounds
in goods, to the payment of any subsidy to
the crown, not chargeable to the highways,
but

but as cottagers, are to find two able men. *Stat. 18 Eliz. c. 10.*

Tools to be provided.

Persons and carriages are to be provided with shovels, spades, pick-axes, and other tools and instruments necessary; and shall work eight hours in the day. *Stat. 22 Car. 2.*

In places where carts are not used, the inhabitants shall send horses, according to the custom of the place, with able persons under the like penalties.

Plough-lands in several parishes.

If any man hath a plough-land in several parishes, he shall be chargeable only in the parish where he lives; but if he keep several plough-lands in several parishes, he shall be chargeable in every parish. *18 Eliz. c. 10.*

What is a plough-land.

A plough-land was formerly an hundred acres; since eighty acres of land. And by *Stat. 7 & 8 W. 3. c. 29.* 50*l.* per ann. is declared a plough-land.

He who keeps a draught, and but two horses, ought to attend therewith for reparation of the highways. *Dalt. 105.*

Carts liable to be sent out.

A man keeps a cart for hire, and goes with one or two horses, he must send his cart to the amendment of the highways, with as many horses as he goes withal. And brewers, bricklayers, &c. in *Middlesex*, have been adjudg'd to send so many draughts as they keep. *Mich. 27 Car. 2.*

Persons keeping coaches.

A person keeping a coach and pair of horses, is bound to send out a wain towards the repairs of highways; a coach and horses doing equal damage to the ways, as a cart and horses. *1 Lev. 139.*

Every draught to work.

If a man keeps draughts in a parish, he is obliged to send a team for each draught, whether he occupy any land in the parish or

or not; and he who occupies several plough-lands, ought in like manner to send teams for each, whether he keep any draught or not.

Raym. 185. 3 *Kib.* 567.

If the owner of lands neither occupy nor let *Land unoc-* them, but suffer them to lie fresh, he shall be *cupied.* charged as much as if he had occupied them.

Palm. 389.

Upon default of sending carriages, and *Defaults.* working on the highways, &c. the surveyors are to complain to the next justice of peace, who, upon oath made of the default, will issue out his warrant, to levy the forfeitures by distress and sale, &c. to be employed towards amending of the ways.

It is no excuse for the inhabitants of a *Statute-work* parish indicted at common law, for not *not sufficient,* repairing the highways, that they have *Rates to be* done the work required by statute; for the *made.*

statutes are in aid of the common law:

And when the statute work is not sufficient, rates and assessments are to be made. *Dalt.*

c. 26.

And where defendants have made a high- *What repairs* way as good as it is capable of being made, *will not dis-* it is said this shall not discharge them, on an *charge per-* information; though it may be a mitigation *sons.* of their fine. 3 *Salk.* 183.

But the defendants are not bound to put *And what* the highway in better repair than it has been *will.* time out of mind. 1 *Salk.* 358.

Where the statute work falls short in re- *Assessments* pairing of highways, the justices in their *for repair of* quarter-sessions, being satisfied thereof, may *highways.* cause assessments to be made on every person usually rateable to the poor, not exceeding 6*d.* in the pound of the yearly value of lands, &c. which assessments not being paid
in

*But not to
excuse
working on
the ways.*

*Reimbursing
surveyors,
&c.*

in ten days after demand, may be levied by distress. *Stat. 3 & 4 W. & M. c. 12.* And notwithstanding the six days work have not been performed, these rates may be made, and the money disposed of: But the raising money by assessment, shall not excuse the work of any teams or labourers by law appointed to work on the ways. *Stat. 1 Geo. 1. c. 52.*

And when surveyors have laid out their money on materials, as stone, sand, &c. in parishes where they have none, for repairing of the highways, on their making oath before the justices at their special sessions, of what they have expended, two justices in the said sessions, may by warrant under their hands and seals, cause a rate to be made, for reimbursing the surveyors, upon every inhabitant, parson, vicar, and other occupier of lands, tithes, woods, &c. in the parish; which rate being allowed by the said justices in their special sessions, may be levied on persons refusing to pay the same, by distress and sale, &c. *Stat. 3 & 4 W. & M.*

And two justices of peace in their special sessions, may cause a rate to be made for reimbursing a person, where a fine or penalty is levied on him, for the parish's neglect in repairing of the highways.

Persons aggrieved by assessments, may appeal to the quarter sessions, whose order shall be final.

*Form of a
rate or as-
sessment for
repairing of
highways.*

A Rate or assessment made on the inhabitants of the parish of, &c. in the county of, &c. for the repairing and amending of the highways in the said parish, the year, &c.

A. B.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
<i>A. B. Esq;</i>	0	7	0
<i>C. D. Gent.</i>	0	5	0
<i>E. F. Yeoman,</i>	0	5	0
<i>G. H. Esq.</i>	0	6	0
<i>J. K. Esq.</i>	0	4	0

Memorandum, This day and year, *Esq.* the above assessment was allowed and confirmed by us *L. M.* and *J. S. Esqrs*; two of his majesty's justices of peace for the county of, *Esq.* aforesaid: And we do hereby empower *L. D.* surveyor of the highways in the said parish, to ask, demand and levy the same of the several persons above mentioned, as the act of parliament directs; and if not paid in ten days, to levy the same by distress and sale of their goods. *Given, &c.*

L. M.

J. S.

These are the methods of taxation for the *Power of* highways; and the statute 7 & 8 *W. 3. c. 29. special sessions* enacts, That if the 6 *d.* in the pound order'd *in assising.* by 3 & 4 *W. & M.* be not sufficient to repair the ways, after the same is levied and employed, the justices in their special sessions held every four months, may order the whole parish to make good the repairs thereof.

Surveyors of the highways may take rub- *Power of* bish ready digged in or near any quarry, for *surveyors in* repairing of the ways, without leave of the *taking stones,* owner; and gather stones in any land without &c. being trespassers: But they cannot dig for stones without the consent of the owner of the land. 5 *Eliz. c. 13.*

1

But

*But not to
excuse
working on
the ways.*

*Reimbursing
surveyors,
&c.*

in ten days after demand, may be levied by distress. *Stat. 3 & 4 W. & M. c. 12.* And notwithstanding the six days work have not been performed, these rates may be made, and the money disposed of: But the raising money by assessment, shall not excuse the work of any teams or labourers by law appointed to work on the ways. *Stat. 1 Geo. 1. c. 52.*

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A. B.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
<i>A. B. Esq;</i>	0	7	0
<i>C. D. Gent.</i>	0	5	0
<i>E. F. Yeoman,</i>	0	5	0
<i>G. H. &c.</i>	0	6	0
<i>J. K. &c.</i>	0	4	0

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*Digging for
gravel.*

But notwithstanding surveyors may not dig for stones, they may dig gravel in any ground contiguous to the highway; except it be in a garden, orchard, meadow, &c. provided it be but in one pit or hole, not above ten yards over at most; and that the hole be filled with earth at the charge of the parish within a month: not filling up the pit to forfeit five Marks. *Ibid.*

*Turning
water out
of ways.*

Surveyors have authority to turn a water-course or spring of water out of a highway into any ditch of the ground adjacent; to make sluices to such ditches; and to make new ditches and drains in and through the lands next adjoining, where the old ditches, &c. are not sufficient to carry off the water, and to come upon any of the said lands with workmen for that purpose, and to keep them scoured, &c. *Stat. 5 Eliz.*

*Ways how
broad to be.*

A surveyor is to make every cart-way leading to a market-town, eight feet broad at least, and, as near as may be, level; and causeways for horses, must be three feet broad. *Stat. 3 & 4 W. & M. c. 12.*

*Enlarging
highways.*

And justices of peace in their quarter-sessions, or five of them, have power to enlarge or widen any highways in their respective counties, ridings, divisions, &c. so that the ground to be taken into the said highways do not exceed eight yards in breadth; and no house be pulled down, or ground of any garden, orchard, court or yard be taken away; and making such satisfaction for damages, not exceeding twenty-five years purchase, as a jury impanelled by the said justices shall assess. *Stat. 8 & 9 W. 3. c. 15.*

The justices may order the money to be raised by a rate or assessment, not above 6*d.* in

in the pound, as monies are levied for repairs of the highways.

Justices of peace are to issue their precepts *Ground taken in,* to the owners of the ground, to shew cause why the highways should not be enlarged: And the proprietors of lands taken into highways, may cut down timber, &c.

Persons laying any thing in a highway, *Things laid in the highway,* not being twenty feet broad, forfeit five shillings: And if timber, hay, straw, stubble, or other matter for making dung, &c. shall be laid in any highway, those who possess lands adjoining, may remove and dispose thereof to their own use. *Stat. 3 & 4 W. & M.*

Logs of timber are not to be laid in any *Trees, shrubs,* highway, though there be sufficient room for &c. travellers left. And no trees, shrubs or bushes shall grow or stand in, or bough or branch overhang a highway, under the penalty of five shillings. They are to be cut down by the owners of the soil within ten days after notice given by the surveyors, under the like penalty, to be levied by distress; one moiety to go to the informer, the other towards the repairing of the ways. *3 & 4 W. & M. c. 12.*

Injuries to highways, as laying logs of *What publick* timber, erecting gates therein, or making *nusances.* hedges overthwart them; digging ditches, or suffering ditches adjoining to the highway to be foul, which render the way less commodious to the king's people, are public nuisances at common law, and also by the statutes. *Kitch. 34, 35. 8 H. 7. 2 Roll. Abr. 137.*

The

*Hedges and
ditches, by
whom re-
paired and
scoured.*

The soil of highways belongs to him whose land it is on each side. And in whosesoever ground or side a hedge shall be, to the owner of that land belongs the keeping of the same hedge, and the ditch adjoining and belonging to it on the other side, in repair and scoured. 2 Leon. 148.

*Ditches,
trunks or
bridges.*

Those who have lands adjoining to the highway, by the statute 5 Eliz. must scour their ditches as often as there is occasion, and lay trunks or bridges over them where there are cart-ways in a ground, that the water may have a free passage, under the penalty of 1 s. per rod.

*Not doing it,
penalty.*

By the statute 3 & 4 W. & M. if they neglect to do it in ten days after notice, the forfeiture is five shillings. And by the statute 1 Geo. 1. cap. 52. Persons who delay to scour and keep open ditches near the highways, thirty days after notice given by the surveyors to do it, on oath thereof made before the justices at their special sessions, forfeit 2 s. 6 d. for every eight yards of ditching not scoured, &c. to be levied by distress and sale, &c.

*Laying soil
in highways
on scouring
ditches.*

If in scouring ditches any person shall lay the soil in the highway, and not carry it away within eight days after notice, he forfeits not exceeding five pounds, nor under twenty shillings, by 1 Geo. 1. c. 52. Stat. 3 & 4 W. & M.

*When hedges,
&c. to be
new made
and cut
lower.*

Where highways are deep and foundrous, and the hedges adjoining so high as to prevent their drying; surveyors shall present them at the next sessions, and the justices of peace may order such hedges to be new made, or cut lower by the owner, in a proper season.

And

And on the owner's default and neglect, *By the*
 thirty days after notice, the surveyors of the *owners, or*
 highways shall cause the same to be done; *surveyors.*
 and owners are to repay the charge, or the *Act 7 G. 2.*
 money expended shall be levied on them by
 distress, &c. by virtue of the justices warrant.

Stat. 7 Geo. 2. c. 9.

But this shall not extend to timber trees, *Timber-trees*
 growing in hedges adjoining to highways. *excepted.*

Those persons who pull up, cut or remove *Removing*
 any post, block, or stone, or other security *posts.*

set up for securing foot causeways, &c. from
 waggon and carts, shall forfeit 20 s. for every
 offence. *Stat. 7 & 8 W. 3. c. 29.*

Surveyors of the highways neglecting to *Erecting posts*
 erect or fix a stone or post, where two or more *for directions*
 cross highways meet, with an inscription there- *to travellers.*

in large characters, as a direction for tra-
 vellers, containing the name of the next mar-
 ket-town, to which each of the adjoining high-
 ways leads, according to a precept from justi-
 ces of peace at their sessions, shall forfeit 10 s.

Stat. 8 & 9 W. 3. c. 16.

The trustees appointed by any act of par- *Weight of*
 liament for repairing any highways, may erect *carriages.*
 engines for weighing carts, waggons, &c. and
 take, besides the toll granted, 20 s. for every
 hundred weight, which such cart, &c. shall
 weigh above the weight of sixty hundred.

But not to extend to carts, waggons or other
 carriages employed about husbandry or carry-
 ing only of cheese, butter, hay, straw, corn un-
 dished, or chalk, or any one stone, block
 of marble or piece of timber, nor to caravans
 or the covered carriages of noblemen and gen-
 tlemen for their private use, or to such timber,
 ammunition, or artillery as shall be for his
 majesty's use. *Stat. 14 Geo. 2. c. 42.*

No

*Carriers
drawing
waggons
with more
than six
horses.*

No travelling waggon wherein any burden shall be carried, (except of manure for lanes and husbandry, hay, straw, corn unthreshed, coal, timber, and materials for building, stone, artillery, &c.) shall be drawn in highway with more than six horses, oxen or beasts under the penalty of five pounds, one moiety to the prosecutor, the other for repairs of the ways.

Penalties.

The penalty is to be levied by distress of the horses or oxen of the owner of the waggon in three days, by virtue of a justice's warrant: And any person may distrain of seise horses, &c. and deliver them to the surveyor, or other parish officer. *Stat. 9 Ann. c. 18.*

*Horses to be
seized.*

The person seizing, &c. neglecting to bring the cattle to the surveyor, forfeits twenty pounds; and the surveyor neglecting to deliver the sum by him received to the justice is liable to the same penalty, to be levied by distress.

*Carriers
servants.*

Persons employed by carriers or others, and driving or assisting in the driving any travelling waggon with more than six horses, &c. shall be liable to the penalty of five pounds *ut supra*: But where six horses, &c. are not sufficient to draw up hill, or in foul weather any person may, by the consent of the owner or driver, &c. add more horses from any other cart or waggon on the road in the same highway.

*Horses added
going up hills.*

*Five horses,
Statute
1 Geo. 1.*

By the statute 1 Geo. 1. c. 10. The drawing of waggons and carts was to be with five horses, &c. in length, and no more; under the penalties in the act 6 Ann. And this law is according to the first statute made on this

his head, in the 22d and 23d years of king Charles II.

But by 5 Geo. 1. cap. 12. travelling waggons are to be drawn with six horses; and 5 Geo. 1.

starts with three. Travelling with more, the extraordinary horses shall be forfeited to the tithingman: And travelling waggons must have their wheels bound with iron two inches and a half broad, or be liable to forfeit all the horses above three in number: And hindering the tithingman, incurs a forfeiture of 10 l.

Surveyors shall give an account upon Surveyors' sessions, at a special sessions, of all monies that come to their hands, and how disposed, &c. And if any remains, they are to deliver the same over to the next surveyors, or forfeit double the value of what shall be in their hands.

Justices in their special sessions may examine on oath, any person who can give an account of money, which ought to be applied to amending the highways; and levy the penalties, &c. Justices to examine.

And the next quarter-sessions may make such order as they think fit, where any person shall find himself aggrieved. Quarter-sessions. Stat.

Geo. 1. c. 52.

Stewards of leets have power to inquire into the breach of the Stat. 2 & 3 P. & M. for repairing highways, and to set fines, &c. & 3 P. & M. c. 8.

Any justice may upon his own knowledge present at the quarter-sessions any offence concerning the highways, upon which the court may assess a fine. Presentments by justices, &c. Stat. 5 Eliz. c. 13.

Also one justice upon his own view, &c. may commit him who resists any person employed to put the acts in execution relating to the highways, or rescuing goods distrained, unless

unless he pay 40 s. to the surveyor within seven days. *Stat. 22 Car. 2.*

Neglects of surveyors.

By former statutes the penalty is forty shillings for neglects of surveyors in putting the laws in execution for repairing the highways; but by the statute 6 *Ann. c. 29.* the forfeiture is made five pounds. And by 1 *Geo.* surveyors misapplying money, are liable to the like penalty of five pounds.

Neglects of justices.

Justices neglecting or refusing to do what is required by the *Stat. 3 & 4 W. & M.* for amending the highways, shall forfeit 5 l. And justices of peace of all cities and corporations, &c. are to put these acts in execution.

How matters determined.

All matters concerning highways are to be determined in the county where they lie; and the prosecution to be in six months after the offences committed; and no presentment, indictment or order shall be removed from the quarter-sessions by *Certiorari*. *Stat. 3 & 4 W. & M.*

Indictments, how laid.

In indictment for not repairing a highway it must be laid to be the king's highway for all the king's liege people; and set forth from what place to what place it leads, &c. *Hill v. 9 W. 3. B. R. Style's Rep. 356.*

Against inhabitants of parishes.

Where inhabitants of two adjoining parishes are indicted, the indictment ought not to be joint, but several: And if it be against persons in a hamlet, within a parish, it will be quashed; because such hamlet cannot be charged to repair the highways, except it be by prescription, but the whole parish. *Style's Rep. 157, 163.*

Trials, &c.

In a trial concerning repairs of highways those who are chargeable to the repairs shall not be admitted as evidence; but a person who

the parish, no way liable to such reparations,
will be a good witness. *Term. Hill. 14 &*
5 Car. 2.

At a special sessions held for the high-
ways, on, &c. at the house, &c.

WE whose names are hereunto sub- *Appointment*
scribed being justices of the peace *of a surveyor*
of the county of, &c. do hereby appoint *by justices of*
A. B. of, &c. (one of the persons mention- *the peace.*
ed in a list this day returned to us by
A. D. constable of, &c.) surveyor of the
highways in the parish of, &c. aforesaid,
or and during the space of one whole year
next ensuing the date hereof, according to
the form of the statute in that case made
and provided. *Given under our hands and*
seals, &c.

T. D.

J. S.

Mid. ff. **W**Hereas *A. B. of, &c.* was at *A warrant*
a special sessions held on, &c. *to levy the*
lawfully appointed to serve the office of sur- *forfeiture for*
veyor of the highways, in and for the parish, *refusing to*
&c. aforesaid, for the year ensuing; and it *serve the*
having been duly proved before us, that the *office of a*
A. B. had notice thereof within six days *surveyor.*
after the same, and that he hath refused to
take upon him the said office, whereby he
hath forfeited the sum of 5*l.* one moiety to
be paid to, &c. who hath informed us of the
said offence, and the other moiety to be ap-
plied towards the repairing the highways:
We are therefore to command you to levy
the said forfeiture of 5*l.* on the goods and
chattels

chattels of the said *A. B.* by distress and sale, to be paid and employed as aforesaid; and that you do forthwith return to us or some other justices, &c. the names of other persons within your parish, fit to serve the said office of surveyor, that the business of the highways may not be neglected. *Given, &c.*

A warrant against a surveyor, refusing to account.

W Hereas it hath been duly proved before us *T. D.* and *J. S.* Esqrs; two of his majesty's justices of peace for the county aforesaid, that *A. B.* of, &c. surveyor of the highways in and for the said parish, hath neglected to give an account upon oath, at any special sessions, of the money which hath come to his hands, and which ought to be employed in amending the highways, and how he hath disposed thereof, so that for such his neglect he hath forfeited the sum of 40*s.* These are therefore to command you to levy the said forfeiture, &c.

Turnpikes for repairs of ways.

There are several statutes for erecting *Turnpikes* in ways, giving authority to justices of peace and trustees, to appoint special surveyors of the highways, to amend the same; and collectors of toll, 1*d.* for every horse, and 6*d.* for a coach, &c. accounting to the justices, &c. And all persons chargeable towards the repairs of the highways, shall remain so notwithstanding. 4 & 5 *W. & M.* 7 & 8 *W.* 3. &c.

Felony and transportation.

Persons maliciously breaking down, or plucking up turnpikes, &c. in a highway, convicted on indictment before justices of gaol-delivery, shall be guilty of felony, and be transported for seven years; and

the commissioners or trustees erect gates where *When may*
they have no power, justices of peace in *be removed.*
quarter-sessions may cause them to be re-
moved, by the sheriff of the county. By
Stat. 5 Geo. 2. c. 33.

If any person shall wilfully or maliciously *Pulling down*
pull or cut down, pluck up, or otherwise de- *maliciously,*
stroy any turnpike gate, posts, rails, walls, *rescuing*
bars or fences, &c. or any house there erect- *offenders,*
ed; or forcibly rescue persons in custody for *&c. felony.*
such offences; they are declared guilty of
felony, without benefit of clergy, not to work
corruption of blood, &c. And any person *Persons disco-*
being out of prison, discovering one or *vering others.*
more other offenders, to have a pardon. *Stat.*
8 Geo. 2. c. 20.

The inhabitants of the hundred in such *Damage*
case shall make satisfaction for damages, &c. *satisfied by*
but to be made good to them, if any of the *hundred.*
offenders are apprehended and convicted with-
in twelve months.

Persons that assault any collector of the toll, *Affaulting*
or pass by force through any turnpike with- *collectors, and*
out paying, shall forfeit 5 *l.* leviable by justi- *not paying toll.*
ces. *Stat. ibid.*

If any one, having paid toll, gives his *Tickets not*
ticket to another, to avoid paying, both the *to be given*
person giving and receiving it forfeit 10 *s.* on *to others.*
conviction before the commissioners, or a ju-
stice. *Stat. 13 Geo. 2. c. 25.*

Of Scavengers.

The statutes concerning scavengers are the
2 *W. & M.* 8 & 9 *W. 3.* & 1 *Geo. 1.* but
the first is the most particular.

L

By

*Who chosen,
and manner
of election.*

By this statute, two tradesmen are to be chosen scavengers yearly in every parish within the weekly bills of mortality, by the constables, church-wardens, &c. and other inhabitants; who must take upon them the office in seven days after election and notice, under the penalty of ten pounds, to be levied by distress, by virtue of a warrant from one justice; and for want of a distress the offender is to be committed: The penalty is to be employed in repairing the highways and streets in the same parish. 2 W. & M. Sess. 2. c. 8.

*To send out
their carts,
&c.*

Scavengers every day, except Sundays or holidays, are to bring their carts into the streets, and give notice by a bell, or otherwise, of carrying away dirt, and to stay a convenient time, or shall forfeit 2 l.

*People to
sweep their
doors.*

The inhabitants in London, Westminster, Kensington, Southwark, and within the bills of mortality, are to sweep their streets every Wednesday and Saturday, or they forfeit for every neglect three shillings and four pence. This is increased to ten shillings by Stat. 8 & 9 W. 3. c. 37.

*Laying dirt,
&c. in the
streets.
Penalty.*

Persons laying dirt, &c. in the streets before their houses, are liable to 5 s. penalty; and laying ashes, dirt, &c. before the houses and walls of others, or before church-walls, or throwing any noisome things in the common sewer, highway, or private vault, forfeit 1 l.

*Working,
&c.*

And hooping or cleansing vessels in streets, lanes, &c. mending coaches, or sawing timber or stones, throwing out dung, soil, &c. likewise incur a forfeiture of 1 l.

But

But justices in their petit sessions may give *Scavengers* scavengers liberty to lodge their dirt in vacant *where to* places near the streets, satisfying the owners *lodge their* for the damage ; and if the demands of the dirt. owners are unreasonable, the justices have a power to moderate the price.

Inhabitants of houses are to keep the *Paving of* streets, lanes and alleys before their doors *streets, &c.* paved to the middle of the highway, or shall forfeit for every perch or rod 1 l. and if not amended, 20 s. a week 'till done ; owners of houses unoccupied, are liable to the like penalties.

One justice may certify to the sessions what *New ways.* new ways are fit to be paved ; and owners and inhabitants of houses new built, not paving or amending the ground before their houses, forfeit 2 l. for every perch or rod, and the *Penalties of* like *defaults.* per week for delaying. But when paved, they are only subject to the same penalty as others.

Justices of *Middlesex* may at their quarter-sessions make rates for paving *Kensington,* &c.

The justices in sessions may order an assess- *Scavengers* ment to be made, not exceeding 4 d. *per rates.* pound for lands, and 8 d. for every 20 l. personal estate, every year ; and constables, church-wardens, &c. may make a tax, being allowed by two justices, to be collected quarterly, and be levied by distress and sale, &c. if not paid within 14 days.

By the statute 1 Geo. 1. c. 52. for repair- *Power of* ing of highways, the justices of peace at the *quarter-sess-* quarter-sessions may appoint scavengers, and *sions by* order the repairing and cleansing the streets 1 Geo. 1. in any city or market-town ; and appoint persons to make assessments on all owners.

and occupiers of lands and houses equally, not exceeding six pence *per pound per annum*, to defray the charge of such scavengers, which may be collected by such as the justices think fit, and levied in eight days by distress, &c.

Parishes in Westminster.

The assessments for scavengers in the parish of St. Anne and St. James, within the city of Westminster, shall be rated according to the custom of the said city, where it is not otherwise provided.

Cleanfing of streets in the city.

Antient streets of London are to be maintained according to custom; and cleanfing of streets, &c. must be managed according to the antient usage of the city of London. The lord mayor, or any alderman, may present upon view an offence within the city and liberties thereof; and assess fines not exceeding twenty shillings for every offence, to be paid to the chamberlain for the use of the city. *Stat. 2 W. & M.*

Scavengers accounts.

Scavengers, when new ones are chosen, must account in 28 days before two justices of peace, for the monies assessed and collected, and what remains in their hands must be paid to the new officers; refusing to account, they shall be committed till they do, and 'till payment is made.

Penalties how recoverable and applied.

The penalties *supra* are recoverable by distress, by warrant from a justice, &c. to the constable; and if the offender is convicted by view of the justice, one half of them goes to the poor, and the other to the repair of the ways; but if by evidence, the penalties are distributed between the poor and prosecutor.

The householders within the weekly bills *Lights to be* of mortality, whose houses adjoin to streets, *hung out in* shall hang out lights from the time it grows *streets.* dark 'till 12 a clock at night, from *Michael-* *mas* to *Lady-day*, or pay for lamps, under the penalty of two shillings for every default, &c.

Swine may not be kept in houses or back- *Swine not to* sides of the paved streets, on pain of forfeiting *be kept on* them: And officers may by warrant from the *parcements.* lord mayor, or one justice, &c. search for swine, and drive away and sell them, and deliver the money to church wardens, &c. for the use of the poor.

In the case of the parish of *Newington*, on *Cases about* the *Stat. 2 W. & M.* for paving and cleansing *scavengers* the streets; the question was, if persons that *rates in* lived out of the paying, should contribute to *parishes.* the Scavengers rates; and the court held the rate which charged all the inhabitants generally to be good. *Skin. Rep. 643.*

Persons who are bound to repair the pave- *Where persons* ments before their houses at their own costs, *bound to re-* are also obliged to pay to the scavengers tax; *pair the* for as to paving before their own doors, they *pavement.* have the principal benefit of it. *5 Mod. 68.*

1 Salk. 356.

By the *Stat. 8 & 9 W. 3. c. 17.* owners Hay market, of hay brought into the hay-market, are to *carts with* pay three pence *per* load, and for straw one *bag, straw,* penny, to such as justices of peace shall ap- *&c.* point, towards mending the street called the *Hay-market*: And no person shall suffer their waggons, carts, &c. to stand in any place within the weekly bills of mortality, loaden with hay or straw, from *Michaelmas* to *Lady-day*, after two a clock in the afternoon; nor

Surveyors of

from *Lady-Day* to *Michaelmas*, after three o'clock, on pain of 5 s. for each offence.

Cart-wheels without iron, &c. The wheels of carts, (country carts, those used for carrying goods half a mile beyond the paved streets, and of scavengers excepted) are not to be less than six inches in the felly, and to be without iron; and drawn only by two horses, after they are up the Hills near the water, under the penalty of two pounds for every cart otherwise. 2 *W. & M.*

Carts, &c. may be drawn with three horses. In the *Stat. 2 W. & M. Stat. 2. c. 8.* the 19th section, as far as relates to the drawing any cart, car, or dray, with two horses only, hath been found inconvenient; therefore it is enacted, that any person whatever may make use of any cart, car, or dray, as aforesaid, drawn by three horses. *Stat. 18 Geo. 2. c. 33. §. 2.*

And not more. Any person making use of any such cart, &c. drawn by more than three horses, shall be liable to the penalties by the said act directed to be inflicted on persons using any cart, &c. drawn with more than two horses. *Same Stat. §. 3.*

Carts to be numbered. No person shall drive any cart, car, or dray, of any kind whatsoever, within the cities of *London* and *Westminster* and suburbs thereof, the borough of *Southwark* and other streets within the bills of mortality, unless the master or owner of such cart, &c. shall place upon some conspicuous part of such cart, &c. the name of the owner and the number of such cart, that he may more easily be convicted of any disorder or misdemeanour. *Same Stat. §. 4.*

The owner of every cart, &c. residing within the limits aforesaid, shall enter his name and place of abode, with the commissions for licensing hackney-coaches. *The owner's name to be entered.* Same Stat. §. 5.

Any person driving any cart, &c. not marked, numbered, and entered as aforesaid, shall forfeit 40 s. And any person may seize the cart, &c. or any of the horses, and detain 'till the penalty shall be paid. *Penalty.* Same Stat. §. 6.

It shall be lawful for any person using any cart, car, or dray, as aforesaid, having the wheels of the full breadth of six inches, when worn, to have the same bound round with streaks or tire of iron, provided such streaks or tire of iron be of the full breadth of six inches, and made flat, and not set on with rose headed nails. *Same Stat. §. 7.*

Any carman, &c. riding in a cart or dray, not having another on foot to guide it, forfeits ten shillings to the informer and the poor of the parish. *Breadth, &c. of wheels. Riding in carts, &c.* Stat. 1 Geo. 1. c. 57. And carts in London are not to carry beyond the quantities of bricks, coals, &c. appointed, on pain of forfeiting one of the horses, &c. *Vide 6 Geo. 1. c. 6.*

The statute 2 Geo. 2. c. 11. ordains, That on the 26th of December in every year, the constable, church-wardens and inhabitants of parishes in Westminster, &c. shall meet together and make a list of the names of persons fit to be surveyors of the streets, and return them to the justices at a special sessions held in ten days after; and they are to appoint two or more to the office under their hands and seals. *Surveyors of streets in Westminster by statute. To be chosen.*

And take upon them the office, under penalties. If the persons appointed refuse to act, they shall forfeit 20 l. and the justices are to nominate other fit persons to perform the office, on like forfeiture on refusal; and so upon the death of any person, &c. and if the constable, &c. do not return to the justices such lists, they shall forfeit 10 l.

To view the streets every six weeks, &c.

The surveyors every six weeks, or oftner if necessary, are to take a view of all the streets, lanes, and alleys in the places for which appointed; and shall make a return on oath to the justices at a special sessions, to be holden in the week preceding the quarter sessions, of the names of persons whose pavements are out of repair; and the next justices are to present the same at the quarter-sessions, which is to proceed thereupon.

And cause defaults to be repaired, being reimbursed.

Public notice shall be given in the church on the next Lord's day, of all defaults, &c. and if they are not amended in twenty days after, the surveyors may cause them to be repaired, and shall be reimbursed by the parties who should have done the same; on oath made of the charges before a justice, &c.

Empty houses, next tenant to pay for repairs.

If any paving belonging to a house which is empty, shall be out of repair, the surveyors are to make it good, and may have it new paved, if the justices think fit; and the charges shall be levied on the next tenant by distress: And the new tenant may retain the sum taken out of his rent.

So where any house burnt, &c.

And where any dwelling-house, &c. is burnt or pulled down before the sums are paid, the money shall be levied in like manner on any tenant of the new house erected in the place of such building.

Surveyors

Surveyors of the streets neglecting their *Neglects*. duty, shall forfeit 40*s.* and the justices of peace omitting to do what is required of them, are liable to a penalty of 5*l.*

By this act the justices may order the *Water-pipes* amendment of water pipes and pavements, *order'd to be* where they are irregular or bad. And the *amended*. surveyors, or other persons amending them, shall be repaid by the proprietors of such water-works.

And justices of peace at any special sessions, *Allowance to* may give a reward or allowance to the sur-*surveyors*. veyors for their trouble and loss of time, not exceeding 8*l. per annum*, to be paid out of the scavengers rates.

This statute shall not extend to the royal *Other laws* palaces, or to St. James's square: And all *in force*. laws in force for cleaning the streets, lanes, &c. within the bills of mortality, are to be duly observed, and put in execution so far as they are consistent with this act.

And scavengers and rakers shall sweep *Scavengers*. up and lay in heaps, all the dirt which they are to carry away, on forfeiture of 40*s.*

The statute of 12 Geo. 1. c. 25. appoints *St. James's* commissioners and trustees to clean and repair *square, how* St. James's square, and continue the same *repaired*. cleaned; who may employ workmen, labourers and carters, &c. for that purpose.

Rates to be made and assessed on houses, *Rates made* at so much *per* foot in front, not exceeding *on houses, &c.* 10*s.* a year, leviable by distress, &c. The trustees, by writing under their hands, shall appoint a collector and receiver of the rates, *Collectors and* and they are to account upon oath, before *receivers ap-* justices of peace, &c. and if they refuse *pointed*.

to pay the money to such persons as the trustees order, the justices of *Westminster*, at a special sessions, may commit them to gaol 'till paid.

Trustees to direct distresses, or bring actions.

Three or more of the trustees may direct the collector, with assistance of a constable, to enter houses in the day-time, and distrain goods of persons refusing to pay the rates, and sell the distress in five days, if not replevied; or if a distress be not proper, the trustees may bring action at law for money payable.

Annoying the square, &c.

Persons annoying the square with filth, being convicted before one justice of peace, incur 20s. penalty; to be levied by virtue of the justice's warrant; and making any incroachment on the square, shall forfeit 50 l.

Penalty.

The square a distinct ward.

The *East*, *West*, and *North* parts of this square, &c. shall be a distinct ward, as to scavengers rates only, and be exempted from paying any other rates.

Lincoln's Inn Fields, to be inclosed and kept clean.

The statute 8 Geo. 2. c. 26. Enacts, that the proprietors and inhabitants of *Lincoln's Inn Fields*, shall chuse among themselves trustees to direct the inclosing of the square; who may employ artificers, &c. for doing thereof, and removing all annoyances, &c.

And yearly rates paid to them.

And yearly rates shall be made on all houses, not above 2s. 6d. in the pound, payable to the trustees, or whom they shall appoint to receive and collect the same, part by landlords, and part by the tenants, to be levied by distress and sale of goods, &c. And the square called *Lincoln's Inn Fields*, and back streets, are to be a distinct ward, as to the scavengers rates and watch.

If any persons annoy the fields with any *Annoyances*, filth, they shall forfeit 20 s. and be committed *incroachment*, till removed; making any *incroachment*, is *sports*, &c. liable to 50 l. penalty; and persons assembling to use sports, ride horses, or breaking fences, &c. to forfeit 40 s. leviabie by a justice of peace's warrant. *Penalties of.*

The trustees to raise 6000 l. may grant *Annuities* annuities, or borrow the money at a certain *grantable*. interest, &c.

Watchmen.

Watchmen are of three kinds.

I. THOSE which are appointed by the *Watch by the Statute of Winton*, 13 Ed. 1. Stat. 2. *statute of* c. 4. which is, that from *Ascension-day* 'till *Winton*. *Michaelmas* watches shall be kept in all towns from sun-setting to sun rising; in every city six men at every gate, in every borough twelve men, in every town six or four, according to the number of the inhabitants; this watch is to be set by the constable, and the neglect thereof punishable by the *Star*. 5 H. 4. c. 3. their power is to arrest such as pass by until morning, and if no suspicion, then to be delivered; and if suspicion be touching them, they shall be delivered to the sheriff, *viz.* to the common gaol, there to remain until they be in due manner delivered; and if they will not obey the arrest, hue and cry shall be levied upon them; but this watch extends

extends only between *Ascension-day* and *Michaelmas*.

*Watch kept
by the con-
stable ex
officio.*

II. There is a watch which may be kept by the constable *ex officio*, which may extend to other times, because there are other things under his charge as a conservator of the peace, as for the purpose to raise and pursue hue and cry upon robberies committed, by the statute of *Winton*, 13 *Ed.* 1. *Stat.* 2. c. 1. to search for lodgers in suburbs of cities that are suspicious persons, which is to be done every week, or at least once in fifteen days, by the same *Stat.* c. 4. for such as ride or go armed, by the *Stat.* 2 *Edw.* 3. c. 3. night-walkers and persons suspicious either by night or day, by the *Stat.* 5 *Ed.* 3. c. 14. And though the constable is not bound to any precise time for this kind of watch, nor punishable, if he omit it, barely for the omission, if he be ready upon occasion to do his office when required in these cases; yet it is in his power to hold such watches as often as he pleases, and it is convenient and justifiable, and herein the watchmen are the ministers and assistants of the constable, and are under the same protection with him, and may act as he doth; and regularly he ought to be in company with them in their walk and watch.

*Watch by
authority of
the justices.*

III. And there is a kind of watch by authority of the justices of peace, which may be held at other times than the statute of *Winton* appoints, and the watch thus appointed hath the same power as either of the former; and this seems to be within the power of any one justice of peace by the first *Assignavimus* of his commission, *vide Lamb. Just. lib.* 1. c. 20. *fo.* 185. *Dalt.* c. 60. *fo.* 142. & c. 109. *fo.* 292. but the safer and more usual way

way is by order of the sessions of the peace or of the court of *King's Bench*, which hath the highest ordinary authority in matters of the peace and preservation thereof.

A watchman hath a double protection of the law, *viz.* 1st, as assistant to the constable when the constable is present or in the watch, for so every man who is assisting to the constable in the execution of his office hath the same protection that the law gives the constable. 2d'y, Purely as a watchman set by order of law; and the law takes notice of his authority *sub eo nomine*, and therefore killing of a watchman in the execution of his office is murder. 3 *Inst. c. 7. fo. 52.* 4 *Co. Rep. 41. a. 9 Co. Rep. 66. a. 68. a. b. Mackally's Case.* *A watchman has a double protection of the law.*

And such a watchman may apprehend night-walkers, 4 *H. 7. 2.* and commit them to custody until the morning, and also felons and persons suspected of felony. *May apprehend night-walkers, &c.*

If a watchman or any other person be slain in endeavouring to take a burglar or house-breaker, on a certificate thereof under the hands and seals of two justices of the peace, his executors or administrators will be intitled to 40 l. *Stat. 5 Ann. c. 31.* *Watchmen slain in endeavouring to apprehend a burglar, his executor intitled to 40 l.*

The watch has been regulated in several particular places by the following statutes, *viz.* *Stat. 8 Geo. 2. c. 5. in the parish of St. James Westminster and St. George Hanover-square. Stat. 9 Geo. 2. c. 8. in the parish of St. Martin in the Fields. Stat. 9 Geo. c. 13. in the parish of St. Paul Covent Garden. 9 Geo. 2. c. 17. in the parishes of St. Margaret and St. John Westminster. Stat. 9 Geo. 2. c. 19. in the parish of St. Anne Westminster.* *Watch regulated in particular places.*

ster. Stat. 10 Geo. 2. c. 22. in the city of London, Stat. 10 Geo. 2. c. 25. in Hatton-Garden, and by the Stat. 11 Geo. 2. c. 35. in the parish of Christ-Church Middlesex. Vide Cro. Eliz. 204. 3 Lev. 208. Cumb. 243.

The Statutes relating to Hackney-Coaches and Chairs.

Number of coaches and chairs.

BY the statute 9 *Ann. c. 23.* eight hundred hackney-coaches, and two hundred chairs, are allowed in *London and Westminster*; and the chairs are made up four hundred by the subsequent statutes.

To be licensed by commissioners.

These coaches and chairs are to be licensed by commissioners; and upon every licence shall be reserved 5 *s. per week*, payable monthly for each coach, and 10 *s. per Ann.* to be paid quarterly for every chair. Commissioners licensing above the number, to forfeit 100 *l.*

Persons driving without licence, abusing persons, &c.

Persons driving a hackney-coach without licence, shall forfeit 5 *l.* and a chair 40 *s.* And a person driving a coach, or carrying a chair for hire, not being interested himself in a licence; or guilty of any misdemeanor by giving abusive language, demanding more than his fare, &c. one justice may order him to pay, not exceeding 20 *s.* to the poor; and not being able to pay it, may send him to the house of correction for seven days.

Refusing to go for their fare.

Coachmen refusing to go at, or exacting more for hire, than by the act is limited, forfeit a sum not exceeding 3 *l.* nor under 10 *s.* at the discretion of the commissioners,

three

three or more whereof are to determine the same. By 1 Geo. 1. c. 57.

And the commissioners may make by-laws for regulating hackney coachmen, &c. And the rents or sums reserved, and all forfeitures and penalties shall be levied by warrant of three commissioners, by distress and sale of goods in ten days. *Power of commissioners in levying penalties, &c.*

Persons not paying coachmen their due fare, or cutting or defacing coaches, chairs, &c. a justice shall order them to make satisfaction; and on refusal may bind them over to the quarter-sessions. *Not paying fare.*

The fare of hackney coachmen in London or within ten miles, is 10 s. per day, allowing twelve hours to the day; and by the hour not above 1 s. 6 d. for the first, and 1 s. for every hour after: And none are obliged to pay above 1 s. for the use of any hackney coach for any distance (not mentioned in the act) which is not above one mile and four furlongs; nor above 1 s. 6 d. for any distance not exceeding two miles. *The fare of hackney coaches.*

The places and sums specified by the act, are 1 s. from any of the Inns of Court to any part of St. James's or Westminster, (except beyond Tottil-street) and from the said Inns, or thereabouts, to the Royal Exchange, 1 s. and to the Tower or Bishopsgate or Aldgate, 1 s. 6 d. and so from the said places to the said Inns: and the like rates from and to any places at the like distance. *Places mentioned in the act.*

In pursuance of this act, the commissioners have caused to be measured and rated several distances between the most noted parts of the town, as follows:

The

The Rates of Hackney-Coaches for particular Distances, (not specified in the Act) ordered by the Commissioners within the Weekly Bills of Mortality.

One Shilling rates for Coaches.

*Rates set by
commissioners
for coaches.*

FROM Westminster-hall to Marlborough-street, Bolton-street, Soho-square, Bloomsbury square, Little Queen-street, Holborn.

From St. James's gate to Queen Anne's square, Westminster, the nearest corner of Red-lyon-square.

From Golden-square to Red-lyon-square.

From the Hay-market theatre to Red-lyon-square, Bloomsbury-square, Queen-square, Westminster.

From Red-lyon-square to Guild hall.

From the upper end of Fetter-lane, Holborn, to Aldgate.

From the Royal Exchange to Hoxton-square.

From Newgate to the middle of Greek street, near Soho-square.

From the King's head tavern, Southwark, to the sign of Sir William Wallworth.

From Gray's Inn to Sadlers-wells, by Islington.

From Tom's Coffee-house in Russel-street, Covent-garden, to Newcastle-house near Clerkenwell church.

From Temple-bar to Billingsgate.

From Aldgate to Shadwell Church.

One

One shilling and six-penny rates for coaches.

From *Drury-lane* playhouse to *Queen Anne's square, Westminster.*

From *Westminster-hall* to *St. Paul's church* or *Queen-square, Red-lyon-fields.*

From *St. James's gate* to *Hatton-garden.*

From the *New Exchange* in the *Strand* to the *Royal Exchange.*

From the *Hay-market* playhouse to *Hatton-garden.*

From *Westminster-hall* to *Red-lyon-square.*

From *St. James's* to *Marybone church.*

From the *Royal Exchange* to *Bloomsbury-square*, or to the watch-house at *Mile-end.*

From the outside of *Aldgate* to *Stepney church.*

From *Bedford-street, Covent-garden* to *Coleman street.*

From *Bread-street* to *Upper Moorfields*, and thence to *Hoxton-square.*

From *Austin friars gate* in *Broad-street* to *Hart-street* by *Bloomsbury-market.*

From *St. Martin's-lane* in the *Strand* to *Gold-street* by *Wood-street.*

From the end of *Lombard-street* next *Grace-church-street* to *Somerset-house.*

From *St. Lawrence's-church* by *Guild-hall*, to *Brownlow-street* in *Drury-lane.*

From the *Royal Exchange* to *Newington church* beyond *Southwark.*

From *Tom's coffee house* by *Covent-garden* to the *Royal Exchange.*

From *Stocks-market* to *Charing-cross.*

From *Aldgate* to *Ratcliff-cross.*

The Fare of a Hackney-Chair is 1 s. for any Distance not exceeding a Mile; and 1 s. 6 d. for any distance not exceeding a Mile and four Furlongs: And for particular Distances as follows, viz.

One shilling rates for chairs.

*Rates set
for chairs.*

FROM Westminster-hall to Covent-garden, or to Exeter Exchange.

From St. James's gate through the park to Westminster-hall.

From St. James's gate to Somerset-house.

From Somerset-house to the upper end of Hatton garden.

From the Hay-market theatre to Bolton-street, Essex-street, Soho square, entrance of Lincoln's inn fields.

From the nearest corner of Golden-square to Drury-lane theatre.

One shilling and six-penny rates for chairs.

From Westminster-hall to Marlborough street, Soho-square, Bolton-street, Temple-bar.

From St. James's gate to queen Anne's square, Westminster.

From Golden-square to Red-lyon-square.

From Red-lyon-square to the Hay-market play-house.

From Queen-square to the said play-house.

From the Hay-market play-house to Bloomsbury-square or Grays-inn.

*Standings
of coaches.*

The most noted places for standing of hackney coaches, are Palace-yard, Westminster

near *Westminster-hall* gate ; near *Scotland-yard*, *Whitehall*, *Charing-cross*, *St. James's palace*-gate ; *Somerset-house*, *Little Russell-street*, and *Bedford street*, *Covent-garden* ; near *St. Clement's church* in the *Strand*, *Temple-bar*, *St. Dunstan's church*, *Fleet-street* ; near the gates of the *Inns of court*, *St. Paul's church*, *Guild-hall*, *Stocks-market*, the *Royal Exchange*, between *Bishopsgate* and *Devonshire-street* end, &c. But by order of commissioners, they are to stand in the middle of the streets, and not against gates ; or in streets not 30 feet wide ; nor cross any street, or within eight feet of houses, walls, &c. on pain of 10 s. And the drivers are to give way to persons of quality, and gentlemens coaches, under the like penalty of 10 s.

Hackney coachmen not having tin plates with the number of their coaches, shall forfeit 5 l. Refusing any person to take the number, or giving a wrong number, to forfeit a sum not exceeding 40 s. *Numbers, &c.*

None but licensed persons shall stand, ply or drive any coach, hearse or coach-horses for hire ; or shall let to hire any mourning-coach, or coach-horses, to attend on funerals, within the weekly bills of mortality, under the penalty of 5 l. *Stat. 1 Geo. 1. cap. 57.* *Coaches for funerals.*

And on *Sundays*, one hundred and seventy-five coaches only are to ply, by persons appointed, under the like penalty, &c. *On Sundays.*

The Laws and Statutes concerning Watermen.

*Overseers
and rulers,
&c. and their
power.*

*Watermen
a company.*

*Watermen's
names regi-
stered, size of
boats, &c.*

*Taking more
than their
fares.*

*Who to car-
ry passengers
on a Sunday.*

*Licence for
boats.*

THE lord mayor and court of aldermen of London, are yearly to elect eight of the best watermen, to be overseers and rulers, and keep good order amongst the rest; and the watermen shall chuse assistants who may make rules to be observed under penalties; and the lord mayor and aldermen, and justices of peace are to hear and determine offences, &c. Watermen and lightermen on the *Thames*, between *Gravesend* and *Windsor*, are made a company by statute 2 & 3 P. & M. c. 16. 11 & 12 W. 3. c. 21.

Watermen's names shall be registered by the overseers; their boats or wherries must be twelve foot and a half long, and four foot and a half broad in the midship, or be liable to forfeiture; and two watermen shall not ply, but where one of them hath exercised the profession two years, and been allowed by the overseers. And watermen taking more than the rates or fares appointed shall forfeit 40 s. and suffer half a year's imprisonment; and refusing to carry persons for their fare, be imprisoned twelve months. *Ibid.*

Forty watermen appointed by the rulers, are to carry passengers cros the river on *Sunday*; and being paid for their labour, the overplus money is to be applied to poor decayed watermen, &c. And where persons travel on a *Sunday* with boats, they are to be allowed by a justice of peace, on pain of forfeiting

feiting 5 s. for every offence. Stat. 11 & 12 W. 3.

By the Stat. 4 & 5 Ann. c. 13. The orders made for restraining watermen free of the company from taking apprentices, are declared void. And by this act, on notice of the commissioners of the admiralty, watermen are to appear before the company, to be sent on board the fleet: Not appearing, they shall be imprisoned one month, and be disabled for two years.

No watermen on the Thames shall take an apprentice or servant, unless he be an house-keeper, or have some known habitation, and shall register the same with the clerk of the company, on pain of 10 l. And apprentices are not to take upon them the care of any boat till 16 years of age, &c. except they have worked with some able waterman for two years at least under the penalty of 10 s. by Stat. 2 Geo. 2. c. 26.

If any person not having served seven years to a waterman, &c. row any boat on the said river for hire, he shall forfeit 10 l. to be levied by distress; and for want of sufficient distress, the lord mayor of London, or any justice for the place where the offence is committed, may by warrant commit the offender to the house of correction, not exceeding one month, nor less than fourteen days. Stat. *ibid.*

But gardeners boats, dung boats, fishermen, mill boats, wood lighters, western barges, &c. are excepted, and may be rowed by persons in such manner as accustomed.

All constables, &c. are to be aiding and assisting in the execution of this act.

By

*Watermen
regulated
by new act
10 Geo. 2.*

*Apprentices
inrolled,
under pe-
nalties.*

*Number of
passengers
to be taken
into boats.*

*If more, and
one drowned,
'tis felony.*

*How tilt-
boats to be
governed.*

*Not to put on
shore, &c.*

*Barges, &c.
excepted.*

By Stat. 10 Geo. 2. c. 31. Watermen using boats, &c. upon the *Thames*, are not to take any apprentice under fourteen years old, who shall be bound for seven years, and inrolled in the book of the watermen's company, under 10*l.* penalty; and no more than two apprentices to be taken at one time, when the first hath served four years, on the like forfeiture.

No persons working any tilt-boat, row-barge, &c. shall take in above thirty-seven passengers, and three more by the way; nor in any other boat above eight passengers, and two by the way, on pain of forfeiting 5*l.* for the first offence, and 10*l.* for the second, &c. And in case any person be drowned, where a greater number is taken in, the watermen to be guilty of felony, and transported.

And the tilt boats used between *London* bridge and *Gravesend*, shall be fifteen tons and not under, and other boats three tons: Also the rulers of the company of watermen are to appoint two officers, one at *Billingsgate* at high water, and another at *Gravesend*, to ring a bell for the tilt-boats to put off; and if they do not immediately proceed on their voyage, with two sufficient men, without putting on shore within two miles, they shall forfeit 5*l.* leviable on their boats, tackle, &c. as by the former act.

Persons navigating flat bottomed boats, or barges, are not subject to the penalties of this statute.

Rates of Watermen.

239

Rates of Watermen in and about London and Westminster.

Oars. Sk.

s. d. d.

FROM London-bridge to Lime- house, New-crane, Shadwell- dock, Bell-wharf, Ratcliff-cross.	} 1	6
To Wapping-dock, Wapping New and Oldstairs, the Hermitage, Rotherbith church stairs.	} 6	3
From St. Olaves to Rotherbith church stairs.	} 6	3
From Billingsgate and St. Olaves to St. Saviour's Mill.	} 6	3
All the stairs between London-bridge and Westminster.	} 6	3
From either side from London-bridge to Lambeth and Vauxhall.	} 1	6
From Temple, Dorset and Black- fryars stairs, or Paul's Wharf, to Lambeth.	} 8	4
From Whitehall to Lambeth and Vauxhall.	} 6	3
Over the water directly between Vauxhall and Limehouse.	} 4	2

Distant

Rates of Watermen.

*Distant from London, &c. Rates of
Oars.*

	<i>Whole Com- Fare. pany.</i>	
	<i>s. d.</i>	<i>s. d.</i>
F ROM London to Gravesend	4 6	0 9
—Woolwich	2 6	0 4
—Blackwell	2 0	0 4
—Greenwich or Deptford	1 6	0 3
—Chelsea, Battersea, Wandsworth	1 6	0 3
—Putney, Fulham, Barn Elms	2 0	0 4
—Hammersmith, Chiswick, Mortlake	} 2 6	0 6
—Brentford, Isleworth, Richmond		
—Twickenham	4 0	0 6
—Kingston	5 0	0 9
—Hampton Court	6 0	1 0
—Hampton Town, Sunbury, and Walton	} 7 0	1 0
—Weybridge and Chertsey		
—Staines	12 0	1 0
—Windsor	14 0	1 0

Hire of the Tilt-boat to Gravesend 22 s.
6 d.

Every single person in the ordinary passage
6 d.

These rates are set forth and appointed by
the lord mayor and aldermen, by virtue of
the first statute afore-mentioned.

T H E

THE T A B L E.

Of Constables, &c.

O F High Constables, petty constables, headbo- roughs and tithingmen. <i>Page 1, 2, 3</i>	
Authority of high constables beyond petty constables.	4
High constables how elected, refusing the office, &c.	5
Petty constables, how chosen.	6
Deputies.	6
Qualification.	7
Persons exempted.	7
Constables oath.	7
Duty of high constables, to keep the peace, and oversee other parish-officers, make presentments, execute war- rants, and in respect to clothiers, &c.	8, 9
—To poor prisoners, maimed soldiers, vagrants, &c. and in levying county-rates, &c.	9, 10
Constables of <i>London</i> , their number, &c.	10
M	—Manner

The TABLE.

————Manner of election, oath, presentments, extent of power, &c.	Page 11, 12, 13
————Nightly constables and watch, how appointed by new act, 10 Geo. 2.	12
Constables in general, and their business in keeping the peace, &c.	13
————Their original power.	14
Particular heads of their duty.	15
————Constables power in <i>affrays</i> , may set affrayers in the stocks, or put them in prison.	15, 16
————To levy penalties of unlicensed <i>alibouse keepers</i> , tiplers, &c.	17, 18
————To seize persons unlawfully armed, &c.	19
———— <i>Arrests</i> by private persons	19
————Offenders deliver'd to the constable.	19
———— <i>Artificers</i> going out of the kingdom, punishment inflicted.	19
———— <i>Bakers</i> , selling bread under weight, assise of bread, Price set thereof, &c.	20
———— <i>Bastardy</i> , to apprehend mothers of bastards, leaving an infant in a parish.	21
————To arrest persons in <i>bawdy-houses</i> .	21
———— <i>Beggars</i> , to remove and whip.	21
————Assessments for repair of bridges, by whom to be repaired, money levied and applied, &c.	22
———— <i>Butter</i> , to be good and sold in casks mark'd, under penalties.	23
———— <i>Buttons</i> , cloth buttons, &c. prohibited.	23
———— <i>Cambricks</i> , penalty on wearing them.	23
————To provide <i>carriages</i> on march of soldiers, &c.	24
————To seize <i>cattle</i> imported from <i>Ireland</i> , forfeited for the poor, driving away or killing cattle felony.	25
————To be assisting in regulating <i>cloth</i> , <i>Norwich</i> stuffs, &c. searchers and length of broad cloaths, punishing combinations of weavers, &c. Search for cloth taken from the rack or tenters, by the new act, 15 Geo. 2.	25, 26, 27

————*Coals*,

The T A B L E.

———	<i>Coals</i> , the price set in <i>London</i> , and bushels and sacks mark'd, under penalties levied by constables.	Page 27
———	<i>Coal-meeters</i> appointed for <i>Westminster</i> .	28
———	To levy fines for resorting to <i>conventicles</i> , enter houses, &c.	29
———	Punish persons hindering <i>corn</i> to be transported.	30
———	To levy the penalties on <i>curriers</i> for defaults and neglects.	30
———	To assist officers of the <i>customs</i> , search for goods, vessels to be entered, &c.	31
———	And take up suspected persons on the sea-coasts, brandy or tea, &c. offer'd to sale, may be seized.	31
———	Where smuggling adjudg'd felony.	32
———	To levy penalties on <i>deer-stealers</i> , the penalties particularized, act 5 <i>Geo. 1.</i>	32, 33
———	To apprehend <i>d'serters</i> , soldiers.	33
———	<i>Distillers</i> , penalties to levy on persons selling brandy about streets, and not paying fines, to convey them to the house of correction, also to levy the penalties for retailing spirituous liquors without licence, &c. Act 16 <i>Geo. 2.</i>	33
———	To assist in taking distress for rent, the manner of taking it, appraiser's oath, inventory and appraisement, notice of the distress, all distresses to be reasonable, &c.	35, 36, 37
———	Goods conveyed away, distress off the premises, frauds punish'd, and when houses may be broke open, &c. by the Act 11 <i>Geo. 2.</i>	38
———	To levy the penalties of <i>drunkenness</i> .	39
———	<i>Dyers</i> , to levy penalties for deceitful dying cloth, &c.	39
———	To summon alehouse-keepers, assist gaugers, &c. in the excise.	39
———	<i>Escape</i> , voluntary and negligent, may put irons on a felon, &c. assisting persons to escape; when felony, new act 16 <i>Geo. 2.</i>	40

The TABLE.

——To apprehend <i>felons</i> , seize persons suspected, break open doors, convey to gaol, transportation of felons, &c.	Page 42
—— <i>Fires</i> , to assist in putting out the same, what to be done for prevention, &c.	43
——To levy penalties for unlawful <i>fishing</i> , fishmongers of <i>London</i> , size of fish sold, fish taken out of season.	44
——To assist in removing <i>forcible entries</i> .	45
——To search for <i>foreign goods</i> prohibited, forfeitures.	45
——To present forefallers, &c. and how they are punished.	46
—— <i>Game</i> , to carry higlers before a justice, penalties, search for game, persons not qualified, qualification to keep guns, dogs, &c. and of game keepers, &c.	47, 48
——To search gaming-houses, penalties, how money lost recovered, &c. New act against excessive gaming, 12 Geo. 2. & Stat. 18 Geo. 2.	48, 49
—— <i>Gaol</i> , gaoler to receive prisoners from constables, offender's goods to be sold to carry him to gaol, escapes in gaolers, &c.	50, 51
—— <i>Gunpowder</i> , to search for where more kept than allowed, not to be put on board ships above <i>Black-wall</i> .	51, 52
—— <i>Hawkers</i> , to levy the forfeiture trading without licence, duty paid, persons excepted not to sell tea, &c.	52
——To levy penalties of persons selling <i>hay</i> in the <i>Hay-Market</i> , under weight, &c.	52, 53
——To whip <i>hedge-breakers</i> , &c. search for stolen wood, penalties, satisfaction, &c.	53
——To put acts in execution relating to <i>highways</i> , &c.	54
—— <i>Hops</i> , to levy penalties for frauds in the duty, &c.	55
——To drive commons of horses and cattle, &c.	55
Horse-races restrain'd by new Act 13 Geo. 2.	55
To	55

The TABLE.

——To convey to the <i>house of correction</i> idle and disorderly persons, vagabonds, &c.	Page 56
—— <i>Hue and cry</i> what, how made, search in the pursuit, penalty for neglecting, &c.	57, 58
—— <i>Inns</i> , for what ordained, inn-keepers refusing to lodge persons, or to sell victuals at reasonable prices, reckoning-disputes, &c.	58, 59
—— <i>Juries</i> , to return lists of jurors, their qualifications, &c. New act 3 <i>Geo. 2.</i> Lists to be made from parish rates, and names entered in freeholders book, choosing jurors by ballot, special juries, &c.	60, 61
—— <i>Labourers</i> set on work by constables, and hours of working.	61, 62
——Penalties to levy for breaking down <i>lamps</i> , &c.	62
——To assist in levying the <i>land-tax</i> , distress for the tax, &c. How the tax laid, relief on being over-rated.	63
—— <i>Linen</i> , &c. stealing it felony.	64
—— <i>Lunatics</i> may be confin'd.	64
——To search for bad <i>malt</i> , malt ill made, forfeitures, duty on malt, concealments, malt exported, allowances on exportation.	64, 65
—— <i>Measures</i> to be examin'd, &c. Ale-measures mark'd.	66
——To levy money for providing arms for <i>militia</i> , persons chargeable to horse and foot, what arms to be furnished, &c.	66, 67
—— <i>Night-walkers</i> to take up, &c. but not on bare suspicion.	66
—— <i>Orchards</i> , robbers of how punished.	68
——Papists. See <i>Popish Recusants</i> .	
——To assist college of <i>physicians</i> , persons licensed to practise physic, medicines examined.	68
—— <i>Plague</i> , persons infected, monies for relief, &c. Quarantine to be performed.	68
—— <i>Players</i> acting without licence, to be taken up, &c.	69
M 3	—— <i>Popish</i>

The T A B L E.

——— <i>Popish Recusants</i> , persons suspected, to present them, certify names to the sessions, &c. Papists to register their estates.	Page 69, 70
——— <i>Post Letters</i> , postage how recovered, price of postage, &c.	71
——— <i>Presentments</i> , of constables, particulars presentable, form of a presentment.	71
——— <i>Prisons</i> , the compters, &c. Constables power.	73
——— <i>Prisoners</i> , tax for relief of, discharged out of prison, by 2 Geo. 2.	73
——— <i>Riots</i> , routs, unlawful assemblies, <i>new</i> riot act, and act 9 Geo. 2. against offering violence, armed in disguises, sending threatening letters, firing houses, &c.	74, 75
——— <i>Robberies</i> , tax where a robbery committed on the highway, apprehending robbers, &c. Actions against the hundred, and further reward for taking any robber, &c. by 8 Geo. 2.	76
——— <i>Wandering rogues</i> to be whipp'd, incorrigible rogues, how described and punished, &c.	77
——— <i>Sail-cloth</i> , of working foreign sail cloth, penalty.	78
——— <i>Salt</i> , to be sold by weight, under a penalty leviable by constables, &c.	78
——— <i>Testimonials for servants</i> , form of a testimonial.	79
——— <i>Shoemakers</i> using bad leather, journeymen imbezilling or neglecting work undertaken, &c.	80
——— <i>Soldiers</i> , quartering them, who liable to have soldiers quartered on them, how insisted, deserting service, pressing in time of war, not to kill game, &c.	80, 81, 82, 83
——— <i>Sunday</i> , forfeitures for playing, using games, trades, working on, &c.	84
——— <i>Superfidees</i> to be obeyed, good to discharge a person.	85
——— <i>Penalties for swearing</i> , corporal punishment, &c. Penalty on constable omitting his duty.	85
——— <i>Taylor</i>	

The TABLE.

—	Taylors, wages of journeymen settled, to be paid by masters.	Page 87
—	Tithes in London, refused payment, to levy money adjudged for small tithes, &c.	87
—	Tobacco, planted to be destroyed, the penalty of planting, walnut leaves mix'd with tobacco.	88
—	Turnpikes, constables to execute warrants of commissioners, &c.	88
—	Vagrants, who are such by statute, reward for apprehending, manner of passing them, rates, and how paid, certificates and receipts, not conveying persons; vagrants re-convey'd to Ireland, &c. permitting vagabonds to lodge in barns, wandering lunatics, &c. The new act 13 Geo. 2. concerning vagabonds.	89 to 94
—	Watch when set, refusing to serve, apprehending night-walkers and suspicious persons, conveying to the comptroller; constables and watchmen's duty, in large parishes of Westminster, watch and ward stands and allowances, &c. by 8, 9 & 10 Geo. 2.	94, 95
—	Constables to be aiding in execution of acts to regulate watermen.	* 95
—	Every city, borough and town, to have a common balance and bushel, and seal'd weights and measures, under penalties, constables to examine, penalty of selling by false weights, &c.	95, 96
—	Wrecks, to call assistance to save ships, reward for salvage, goods not to be taken away.	97
—	Warrants, when to be executed, before whom offenders must be carried, pursuit of offenders, false imprisonment, what required to make a good warrant, contempt of a justice's warrant.	98, 99, 100

The T A B L E.

Precedents.

A justice of peace's warrant to a high constable, to issue his precept to petty constables, to make presentment of offences.	Page 100
The high constable's precept to petty constables to make such presentments.	101
The high constable's warrant to make a search.	102
High constable's precept to petty constables to prepare lists of jurors.	102
▲ warrant from a high constable to a petty constable to levy gaol-money.	103
High constable's warrant to levy money for repairs of bridges.	103
A receipt for money for passing vagrants, &c.	103

Church-wardens and Overseers of the Poor.

Church-wardens, how elected and sworn in their offices, and the oath taken by them.	105, 106
Persons excused from serving, dissenters how to act.	107
Their duty in seeing persons come to church, persons not to talk idly at church, quarrelling there, disturbers of the congregation, &c.	107, 108
——To search ale houses on <i>Sundays</i> , levy penalties of prophane swearers, &c.	108
To keep the keys of the belfry.	109
——Make presentment of things belonging to the church, the parson and parishioners, not to be made out of malice.	110
——Repair seats, when to dispose of places, appoint pew-keepers, &c. seats in the chancel, body of the church, &c.	111, 112
——Family seats and isles, erecting pews, hanging up bells, &c.	112
——Duty	

The TABLE.

——Duty in repairing the church, particular repairs; church ornaments, what.	Page 113
——Rates for repairing of churches and ornaments, persons chargeable in respect of lands, &c. power of spiritual court in repairs and rates, of the parishioners, sexton's wages, &c. And power of justices to levy money assesse's d.	114 to 116
——A rate for the repairs of a church.	117
——A warrant to distrain for a church rate.	118
——Chapelries, repairs of new churches, what makes a church, burying, &c.	119
——Robbing persons in the grave, fighting in the church, arresting persons going to church, &c.	120
——Church-wardens power in respect to tombs, or- gans, goods of the church, &c. in London may take lands, &c.	121
——To keep engines, erect fire-cocks, reward for bringing engines.	122
——To account, take out sequestrations, on vacancy of benefices, join with overseers, constables, &c.	123, 124
——Of <i>sidesmen</i> , assistants to church-wardens, how chosen, and their duty in making presentments, &c.	125
——A warrant against sabbath-breakers.	126
——Of <i>briefs</i> , and their management, read and money collected, returned, &c.	127
——Of <i>parochial libraries</i> , how preserv'd, catalogues taken, &c.	128
——An act for building <i>fifty new churches</i> , com- missioners appointed, &c.	129
——Commissioners power in purchases, ascertaining bounds of churches, making new parishes, &c.	129, 130
——Rectors of the new churches, value of rectories, who right to present.	130

The TABLE.

Church-wardens, &c. elected, parishes divided, rates for the poor, &c. maintenance of clergy, 1 Geo. 1.	Page 131, 132
Particular statutes 5 & 12 Geo. 1, and 1, 2 & 3, 6, 8 & 10 Geo. 2. relating to <i>St. Mary le Strand</i> , the new church at <i>Milbank</i> , <i>Westminster</i> , <i>Spittle-Fields</i> church, <i>Wapping</i> , <i>Stratford</i> , <i>Bow</i> , <i>Limchouse</i> , <i>Deptford</i> , <i>St. George the Martyr</i> , <i>Shoreditch</i> , <i>St. Olave</i> <i>Rothkirch</i> , <i>Ealing</i> , <i>St. Katherine Coleman</i> , <i>St. Botolph without Aldgate</i> , and <i>Bethnal-Green</i> .	133, 134, 135
Of vestries, parishioners right to come to them, select vestries, &c.	135
Vestrymen, in parishes, and their power in choosing officers, making rates, &c. Person shut out of a vestry, remedy.	136
Clauses in acts concerning particular vestries, relating to poor, &c.	137, 138
Vestry-clerk, and his business.	139
The parish-badle, his duty and office in <i>London</i> , &c.	139
Of overseers of the poor, how created, &c.	140
Their number.	140
To meet once a month, relieve the poor, set them at work, &c.	141, 142
To provide for poor in present exigencies.	142
What persons they may set at work.	142
Accounts to be rendred, refusing to account, &c.	143, 144
Taxation, overseers power in taxing, and for what purpose.	144, 145
Occupiers of lands to be taxed, personal estate, &c.	145
Parishes in two counties, power of justices in taxation, form of a rate or assessment for the poor, and collecting look for the poor's rate, how often to be made, relief against rates, penalties for the use of poor.	146 to 151
Public	

The T A B L E.

Public notice to be given of rates.	Page 147
Inhabitants may inspect them and have copies.	147 to 152
Overseers to deliver accompts to their successors.	151
Overseer dying or being removed.	152
Distress in another county.	152
When parents, and the husband of a grandmother, to relieve children, children to relieve parents, &c.	153
Register of poor to be examined by church-wardens and overseers.	154
Cottages for the poor, and taxes for erecting them, a petition to erect a cottage.	155
Taxes for relieving poor sick persons infected with the plague, poor prisoners, &c.	156, 157
Poor apprentices, how placed out, who to take them, refusing, &c. penalty.	157, 158
Money raised for placing out poor apprentices; apprentices in husbandry, &c. Form of an indenture of apprenticeship.	158, 159, 160
Apparel for apprentices, apprentices when discharged.	161, 162
Apprentices to sea service, put out by church-wardens, &c. Masters of ships to take them, indentures how executed, apprentices turn'd over to sea-service, assigned to other masters.	162, 163, 164
Apprentice assigned, when not good, justice's power in discharging and punishing, setting up trades.	163, 164
Servants detained, apprentices, &c.	165
Persons compellable to go to service, punishment refusing, &c.	164
Wages of servants, labourers, &c. Masters giving more, servants taking more, &c.	164, 165
Labourers not finishing work, servants leaving masters without warning, masters putting away servants, sickness of servants.	165, 166
How	

The TABLE.

- How wages paid on parting, on the death of the master, servant assaulting his master, purloining goods, &c. Page 166, 167
- Servants marrying, a servant maid with child, how provided for. 167
- An agreement between a master and servant. 168
- Bastards*; who are bastards, proceedings where a bastard is begotten, examination of the woman, order of justices, appeals, &c. bond of indemnity. 168 to 176
- Persons able to keep the child not punishable, father may maintain the child, in what cases discharged, &c. 170, 173, 174
- Putative father's goods to be seized to indemnify the parish. 176
- Punishment of father and mother, defamation, how bastards settled, relieving them makes no settlement. 177, 178
- Settlements*, parishes to provide for their own poor. 177
- Children settled where born, with parents, &c. Children born in prison, how settled; where a child is brought from one place to another; wife to be settled with her husband. 177, 178, 179
- Taking a house, service, &c. makes a settlement, persons forced out of their habitations, &c. 179
- Persons having estates not to be removed, though likely to be chargeable. 180
- Forty days formerly a settlement, persons renting under 10*l.* a year, &c. to be removed, notice of persons coming into a parish, &c. 180
- When persons gain a settlement, by renting houses, &c. executing any public office, settlements of servants and apprentices. 181, 182
- A servant hired and serving for a year, master living at several places, extraordinary case of servants, and servants to lodgers, &c. 182, 183
- Appren-

The T A B L E.

Apprentice to one a lodger, continuing forty days, serving in two parishes, settled at last. <i>Page</i>	182,
	183
Persons sent to extraparochial places, settlements in villages, &c. when no settlement gain'd.	183
Certificates on removal of poor persons, what makes a settlement, &c. Soldiers wife and children,	183, 184
Form of a certificate, extraordinary case relating to settlements, of persons removed.	185
A person removed on a wrong certificate.	186
Appeals, church wardens and overseers neglecting their duty, penalty, &c.	186
New act 5 Geo. 1. concerning families left on parishes.	187
New act 9 Geo. 1. relating to relief of poor by justices.	188
Providing houses for lodging, and maintaining poor, &c.	188
A contract for lodging and maintaining poor persons.	190
New act 3 Geo. 2. relating to certificates of poor persons.	190
Workhouses for the poor, erected by statute in particular places, viz. London, Bristol, Worcester, Gloucester, Canterbury, &c.	191, 192, 193
Hospitals for poor foundling children, lately erected in London.	194
Of orders for removal of poor to places of settlement, how made.	195
Orders good and bad, when binding, &c. Persons returning to be removed back.	195
Defects in orders rectified on appeals, &c. by late statute.	196
An order to remove a person.	196

The TABLE.

Surveyors of the Highways, &c.

What are highways, and private ways, and how repaired of common right.	<i>Page</i> 198, 199
Surveyors how chosen, persons qualified, refusing to serve, &c.	200, 201
———Special sessions held by justices for the highways, presentments by surveyors, defaults in amending ways, &c.	201
———Carriages to work on the highways, days appointed, cottagers, &c.	202, 203
Plough-lands, every draught to work, carts, coaches, land unoccupied.	204, 205
———Statute work not sufficient, rates to be made, &c.	205
———Assessments for repairing highways, how made, form of an assessment.	206, 207
———Power of surveyors in taking stones, digging for gravel, turning water courses, &c.	208
———Ways, how broad to be, enlarging of highways.	208
———Things laid in the highways, trees, shrubs, public nuisances.	209
———Scouring of ditches, hedges by whom repaired, trunks and bridges, penalty for neglects, &c.	210
———When hedges, &c. to be new made and cut lower, by owners or surveyors, &c. Act 7 Geo. 2.	210, 211
———Persons removing posts, &c. Surveyors to erect posts where cross-ways meet.	211
———Weight of carriages.	211
———Carriers drawing waggons with more than six horses, penalties of offenders, &c.	212
———Surveyors to account.	213
———Quarter-sessions, presentments of justices, &c.	213
———Neglects of justices and surveyors, penalties.	214
———Indict-	

The T A B L E.

Indictments how laid, and trials and determinations relating to the highways.	Page 214
An Appointment of a surveyor by justices.	215
A warrant to levy the forfeiture for refusing to serve the office of surveyor.	215
Warrant against a surveyor refusing to account.	216
Turnpikes in highways, how erected, &c. destroying them penalty, when may be removed, felony maliciously to pull them down, damage how satisfied, assaulting collectors, &c. New act 14 G. 2.	216, 217
Scavengers, who chosen, to send out their carts.	217
People to sweep the streets, not lay dirt in, or work there, &c.	218
To pave their streets, penalty for not doing it.	219, 220
Scavengers rates and assessments, accounts, &c.	219, 220
Penalties how recoverable and applied.	220
Lights to be hung out in streets.	221
Swine not kept upon pavements, on pain of forfeiture.	221
Cases concerning scavengers rates, and where persons bound to repair.	221
Hay-market, carts with hay, straw, &c.	221
Carts, wheels without iron; riding in carts, &c.	222
Carts may be drawn with three horses, to be number'd, breadth of the wheels.	222, 223
Surveyors of Streets in Westminster, to be chosen.	223
Their office in viewing and repairing the streets, amending water pipes, &c.	224, 225
Allowance to, &c. by the new act 2 G. 2.	225
St. James's square, and how repaired by commissioners.	225
Rates made on houses, collectors and receivers, distresses taken.	225, 226
Annoyances in the square, penalty, &c.	226
Lincoln's	

The TABLE.

——— <i>Lincoln's Inn Fields</i> , trustees to direct inclosing, employ artificers, &c.	Page 226
———Monies raised by granting annuities, and yearly rates.	227
———Incroachments, annoyances, sports, penalties of.	227
——— <i>Watch</i> , different kinds, their authority, &c.	227 to 229
<i>Coaches and Chairs</i> , number to be licensed by statute.	230
———Persons driving without licence, refusing to go for fare, misbehaving, &c.	230, 231
———Fare of hackney-coaches, as settled by the act.	231
———Rates set by commissioners for particular di- stances to all parts of the town.	232, 233
Rates for chairs, &c.	234
Standing of coaches, numbers, &c.	234
———Coaches hired for funerals.	235
———Laws concerning watermen, overseers, and ru- lers; watermen to be register'd, taking more than fares, their apprentices, servants, &c.	236, 237
———Watermen regulated, number of passengers to be taken into boats, if more and one drown'd, 'tis felony, how tilt boats govern'd, &c. by new act 10 Geo. 2.	238
———Rates of <i>watermen</i> about <i>London</i> .	239
———Distant from <i>London</i> , &c.	239

A D D E N-

A D D E N D A.

The Office of Constables.

Written by

Sir FRANCIS BACON, Kt.

TO the first, *Of the original of the authority of constables*, it may be said, *Caput inter nubila condit*; for the authority was grounded upon the ancient laws and customs of this kingdom, practised long before the conquest, and intended and instituted for the conservation of the peace, and repressing of all manner of disturbances and hurt of the people, and that as well by way of prevention, as punishment; but yet so as they had no judicial power to hear and determine any cause, but only a ministerial power; (as in the answer to the 7th article more at large is set down.)

As for the office of the *high constable*, the original of that is yet more obscure; for though the high constable's authority and jurisdiction hath the more ample circuit, he being over the hundred, and the petty constable over the vill; yet I do not find the petty constable is subordinate to the high constable, to be ordered by him. And therefore I doubt the high constable was not *ab origine*

gine, but that when the business of the country increased, the authority of the justices of peace was enlarged by divers statutes: Then, for convenience's sake, the office of high constable grew in use, for the receiving of the commands and precepts from the justices of peace, and the distributing of them to the petty constables: And in token of this, the election of high constable in most parts of the kingdom is by the appointment of the justices of peace; whereas the election of the petty constable is by the people. But there are two things unto which the office of constables hath special reference, and which of necessity, or at least a kind of congruity, must precede the jurisdiction of that office: I mean, either the things themselves, or somewhat that hath similitude or analogy towards them.

1. There is the division of the territory or grofs of the shires into hundreds, vills, and towns; For the high constable is officer over the hundred, and the petty constable over the town or vill.

2. The other is the court leet, unto which the constable is a proper attendant and minister: For there the constables are chosen by the jury, there they are sworn, and there that part of their office which concerneth information, is principally to be performed; for the jury is to present offences, and the offenders; and are chiefly to take light from the constables of matter of disturbance, and nuisance of the peace, which they in respect of that office are presumed to have best and most particular knowledge of.

Now the institution of the leet is to three ends.

1. The first, To take the antient oath of allegiance of all males above the age of twelve years.

2. The second, To enquire of all offences against the crown and peace, and not to enquire only, and certify to the justices of gaol-delivery; but those that are against the peace simply, they are to enquire of and punish.

3. The

3. The third, is to enquire of, punish and remove all publick nuisances concerning infection of air, corruption of victuals, ease of chaffer, and contract of all other things that may hurt or grieve the people in general in their health, quiet and welfare.

And to these three ends, as matters of policy subordinate, the court leet hath power to call upon the pledges that are to be taken of the good behaviour of the resiants that are not tenants, and to enquire of all defaults of officers, as constables, ale-tasters, and the like; and likewise for the choice of constables, (as was said.)

1. The jurisdiction of these leets is either remaining in the king, and in that case exercised by the sheriff in his turn, which is the grand leet granted over to subjects, but yet is still the king's Court.

2. To the second, The election (as was said of the petty constable) is at the court leet by the inquest that makes the presentments: The election of the head constables is by the justices of the peace at their quarter-sessions.

3. To the third, The office of the constable is annual, except they be removed.

4. To the fourth, They be men (as is now used) of inferior, yea, of base condition, which is a meer abuse, or degenerating from the first institution: For the petty constables in town ought to be of the better sort of resiants in the said town, save that they ought not to be aged or sickly men, but men of able bodies in respect of the keeping watch, and toil of their places.

Neither ought they to be in any man's livery. And the high constable ought to be of the ablest of freeholders, and of the most substantial sort of yeomen, next to the degree of gentlemen: But they ought to be such as are not incumbred with any other office, as mayor of the town, under-sheriff, bailiff, &c.

5. To the fifth, They have no allowance, but are bound by duty to perform their office *gratis*, which may the rather be endured, because it is but annual, and likewise

wise because they are not tried to keep or maintain any servants, or under-ministers: For that every one of the king's people within their limits are bound to assist them.

6. To the sixth, Upon complaint made of his refusal to any one justice of peace, the said justice may bind him over to the sessions, where, (if he cannot excuse himself by some allegation that is just) he may be fined and imprisoned for his contempt.

7. To the seventh, The authority of the constables, as it is substantive, and of itself, and astricted to the warrants and commands of the justices of peace; so again, it is original or additional: For either it was given them by the common laws; or else annexed by divers statutes: And as for subordinate power, wherein the constable is only to execute the commandment of the justices of peace, and likewise the additional power which is given by divers statutes, it is hard to comprehend them in any brevity; for that they do correspond to the office and authority of the justices of peace, which is very large, and are created by the branches of several statutes, which are things of divers and dispersed natures. But for the original and substantive power of a constable, it may be reduced to three heads:

1. For matter of peace only.
2. For matters of peace and the crown.
3. For matter of nuisance and disorder, although they be not accompanied with violence or breach of peace.

For pacifying of quarrels begun, the constables may, upon hot words given, or likelihood of breach of peace to ensue, command them, in the king's name, to keep the peace, and to depart and forbear; and so he may, where an affray is made, part the same, and keep the parties asunder, and arrest and commit the breakers of the peace, if they will not obey, and call power to assist him for the same purpose.

For punishment of breach of the peace past, the law is very sparing in giving any power or authority to constables,

stables, because he hath no power judicial; and the use of his office is rather for preventing or staying mischief, than for punishing of offences: For in that part he is rather to execute the warrants of the justices; or when sudden matter ariseth upon his view, or notorious circumstances, to apprehend the offenders, and carry them before the justices of peace, and generally to imprison in like cases of necessity, where the cause will not endure the present carrying of the party before the justices.— And thus much for matter of the peace.

For matters of the crown, the office of the constable consists chiefly of four parts, viz.

1. Arrest.
2. A search.
3. Hue and cry.
4. Seizure of goods.

All which the constable may perform of his own authority, without any warrant of the justice of peace. For,

1. First, if any man will lay murder or felony to another's charge, or do suspect him of murder or felony, he may declare it to the constable; and the constable ought, upon such declaration or complaint, to carry him before the justice: And if by common voice or fame any man be suspected, the constable of duty ought to arrest him, and bring him before a justice, though there be no accusation or declaration.

2. Secondly, If any house be suspected for the receiving or harbouring of any felon, the constable, upon complaint, or common fame may search.

3. Thirdly, If any fly upon the felony, the constable ought to raise hue and cry.

4. Fourthly, The constable ought to seize goods, and keep them safe without impairing, and inventory them in the presence of honest neighbours.

For

For matter of common nuisance, of corrupting air, water or victuals, or stopping or straightning or endangering any passage, or general deceits in weights, measures, sizes, or counterfeiting wares or things vendible: The office of the constable is to give (as much as in him is) information of them, and of the offenders in leets, that they may be presented.

But because leets are kept twice in the year, and many of those things require a speedy or present remedy, the constable in things notorious, and of vulgar nature, ought to forbid and repress them in the mean time.

8. To the eighth, They are for their contempt to be fined, or imprisoned, or both, by the justices in their sessions.

The oath of constables.

9. To the ninth, The oath they take, is in this manner; ‘ You shall swear, that you shall well and truly
‘ serve the king, and the lord of the law-day: And
‘ you shall cause that the peace of our sovereign lord the
‘ king shall be well and truly kept to your power.

‘ And you shall arrest all those that you see committing
‘ riots, debates and affrays in breach of the peace.

‘ And you shall well and duly endeavour yourself to
‘ your best knowledge, that the statutes of *Winchester*,
‘ for watch and hue and cry, be put in force; and the
‘ statute made for the punishment of sturdy beggars,
‘ vagabonds, rogues, and other idle persons, coming
‘ within your office, that the offenders be punished.

‘ And you shall endeavour, upon complaint made,
‘ to apprehend barretors, and riotous persons making af-
‘ frays, and likewise to apprehend felons: And if any
‘ of them make resistance with force and multitude of
‘ misdoers, you shall make outcry, and pursue them
‘ till they be taken.

‘ And you shall look unto such persons as use unlaw-
‘ ful games.

‘ And you shall have regard unto the maintenance of artillery.

‘ And you shall well and duly execute all process and precepts sent unto you from the justices of peace of the county.

‘ And you shall make good and faithful presentments of all bloodsheds, outcries, affrays, and rescues made within your office.

‘ And you shall well and duly, according to your power and knowledge, do that which belongeth to your office of a constable to do for this year to come.

So help you God.

10. To the tenth, Their authority is the same in substance, differing only in the extent: The petty constables serving only for one town, parish or borough; the head constable serving for a whole hundred: Neither is the petty constable subordinate to the head constable for any commandment that proceeds from his own authority. But it is used that the precepts of the justices be delivered unto the high constables, who being few in number, may better attend the justices: And then the head constable, by virtue thereof, makes his precepts over to the petty constables.

11. To the eleventh, The constable, in case of necessity, may appoint a deputy, or in default thereof, the steward of the leet may; which deputy ought to be sworn before the said steward.

The office of constables consists wholly in these three things, viz.

1. Their office concerning the conservation of the peace.
2. The serving of the precepts and warrants of the justices.
3. Their attendance for the execution of the statutes.

The

The office of constables is of great power and authority, especially by night, at which time they have the whole rule and government, and ought to be obeyed, as well without their staff of office or authority, as with it, provided they declare and make themselves known by that title, and in the king's majesty's name: For it is not the staff which makes the constable, but the office which he is sworn unto: And therefore he may command in his majesty's name, any person or persons to go along with and aid and assist him, in and upon all occasions: For while his majesty and his ministers of quality take their rest in the night, the constable's office is to be intrusted with that part of the city or precinct unto which he is called, for fear of uproars and robberies, and such like outrages: And for that reason constables ought to be cherished and respected, if they faithfully discharge that trust committed to them. And let them that are chosen into this office be both faithful and trusty to discharge the trust which is committed unto them. And let not future hope, nor present reward blind their eyes, nor make deaf their ears, lest some danger may ensue, which may prove their ruin and destruction.

Felix quem faciunt aliena pericula cautum.

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